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1 A. Met him several times before the incident.
 2 Q. Okay.
 3 A. Through a mutual friend.
 4 Q. And that being who?
 5 A. Shawn England.
 6 Q. Okay. And how long before the incident did you
 7 meet him? Was it months, or weeks, or what?
 8 A. We had met a couple of times before.
 9 Q. Okay.
 10 A. Yes, sir.
 11 Q. And did you have an occasion to socialize with
 12 Charles Mamou, go out on social events with him?
 13 A. We went out a few times social.
 14 Q. Before December the 6th, 1998, did Charles
 15 Mamou ever stay at your house?
 16 A. No, sir.
 17 Q. On December the 6th, 1998, was Charles Mamou
 18 staying at your house?
 19 A. Yes, sir.
 20 Q. And was that the first day he had stayed there,
 21 or had he stayed there for a few days before?
 22 A. He stayed there a few days before.
 23 Q. Do you remember what day it was that he came to
 24 stay at your house?
 25 A. I guess it was like a -- that Thursday.

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1 6th, I assume you mean between 12:00 and 2:00 in the
 2 afternoon?
 3 A. Yes, sir.
 4 Q. How long was he gone?
 5 A. For a few hours.
 6 Q. Did he come back at a point in time?
 7 A. Yes, sir, he came back.
 8 Q. Do you know what time he may have come back?
 9 A. Had to be about 7:00.
 10 Q. In the evening?
 11 A. Yes, sir, 7:00 that evening.
 12 Q. And did he -- how long did he stay then at that
 13 time?
 14 A. He stayed for a few minutes until the phone
 15 rang, and then he left again.
 16 Q. Was the phone for him?
 17 A. Yes, he made one phone call.
 18 Q. Okay. During the time that he was there at
 19 your house, did he use your phone and receive calls?
 20 A. Yes, sir.
 21 Q. Did you have a cell phone or just an installed
 22 phone?
 23 A. Just a house phone.
 24 Q. Okay. After -- about what time did you say he
 25 left the second time?

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1 Q. Before the Sunday?
 2 A. Yes, sir.
 3 Q. And how was it that he came to stay at your
 4 house?
 5 A. Just through a mutual friend, like we said. He
 6 asked could he stay there for a few days.
 7 Q. So did he stay there at the house at Fondren or
 8 the apartment on Fondren?
 9 A. Yes, sir.
 10 Q. What was the apartment number on Fondren?
 11 A. 1402.
 12 Q. Okay. Where did -- where did Charles Mamou
 13 stay inside the apartment? Where did he sleep?
 14 A. He slept on the sofa.
 15 Q. Now directing your attention to December the
 16 6th of 1998, which was a Sunday, was Charles Mamou
 17 staying there at the -- your apartment on that day?
 18 A. Yes, sir.
 19 Q. Was there a time on Sunday, December the 6th,
 20 that he left the apartment?
 21 A. Yes, sir.
 22 Q. Do you recall about what time he may have left?
 23 A. It had to be about after -- about 2:00 --
 24 between 12:00 and 2:00.
 25 Q. Sometime between 12:00 and 2:00 on December the

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1 A. It had to be about 7:30, 8:00 o'clock.
 2 Q. And after he left at that time, did he -- did
 3 he tell you where he was going?
 4 A. No, just he was leaving.
 5 Q. Okay. Did he come back then to the apartment?
 6 A. Yes, sir, it was later on that night about --
 7 Q. About what time?
 8 A. About -- after 2:00, 2:30.
 9 Q. So that would be 2:00 or 2:30 the next day?
 10 A. Yes, sir.
 11 Q. When he left, did you see -- backtrack for a
 12 moment. When he left the first time, did you see him go
 13 with anybody?
 14 A. He left with a friend, Bug, and he left --
 15 Q. Do you know Bug by any other name?
 16 A. That's it.
 17 Q. How long have you known Bug?
 18 A. Just a few years through -- like I said, I met
 19 him through the same person, Shawn England.
 20 Q. Shawn England?
 21 A. Yes, sir.
 22 Q. The last time he left, did you see who he left
 23 with or if he left with anyone?
 24 A. No, sir.
 25 Q. He came back then on Monday morning, you say,

127 1 around 2:00 or 2:30?

2 A. Yes, sir.

3 Q. Now you say the next day or later that morning,
4 which would be a Monday, did he stay at the apartment
5 all day or did he go somewhere?

6 A. He left for a while to go shoot basketball,
7 left for a little while.

8 Q. Back then, were you working then?

9 A. No, sir.

10 Q. So your responsibility was to --

11 A. Take care of the child and the house.

12 Q. Was your wife working?

13 A. Yes, sir.

14 Q. After he left on Monday to go shoot baskets or
15 whatever, did he come back later on Monday?

16 A. Yes, sir, he did come back.

17 Q. And did he stay there Monday night?

18 A. Yes, sir.

19 Q. Now going to Tuesday, which I guess is December
20 the 8th, did he stay there all day Tuesday, December the
21 8th?

22 A. Yes, sir. Well, not all day. He left that
23 morning. My wife had called and asked was he there. He
24 was there, but he left after we received a phone call.

25 Q. All right. So on Tuesday morning, your wife

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1 Q. Okay. Did you allow them to look inside the
2 apartment?

3 A. Yes, sir.

4 Q. Was Chucky there?

5 A. No, sir.

6 Q. After he left that Tuesday -- was it in the
7 morning that he left?

8 A. Yes, sir.

9 Q. After he left that Tuesday morning, did you
10 ever see Charles Mamou again?

11 A. No, sir.

12 Q. Did you ever receive any phone calls from
13 Charles Mamou after he left?

14 A. No, sir.

15 MR. MCCLELLAN: I'll pass the witness,
16 Your Honor.

CROSS-EXAMINATION

18 BY MR. HILL:

19 Q. Mr. Scott, my name is Wayne Hill. You and I
20 have not met, correct?

21 A. No, sir.

22 Q. You and I have not spoken on the phone?

23 A. No, sir.

24 Q. And you have not been willing to visit with a
25 defense investigator that attempted to speak to you,

128 1 calls you from where?

2 A. From work.

3 Q. Did she inquire as to whether or not Charles
4 Mamou was there?

5 A. Yes, sir.

6 Q. After your conversation with your wife, did you
7 tell Charles Mamou anything?

8 A. I told him he had to go.

9 Q. Why did you tell him he had to go?

10 A. Because from my wife's conversation, it seemed
11 like that something was wrong. And, you know, and I
12 told him he had to go. He left.

13 Q. After he left, did anybody else come to your
14 apartment?

15 A. Friend of mine, Reginald Bingham, he came.

16 Q. Did anybody come after him?

17 A. No, sir.

18 Q. Well, did the police ever come there that day?

19 A. Yes, sir.

20 Q. And about how long after Charles Mamou left did
21 the police arrive?

22 A. It had to be about an hour or an
23 hour-and-a-half or something.

24 Q. And who were they looking for?

25 A. Charles, Chucky.

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1 correct?

2 A. Yes, sir.

3 Q. The only people that you've spoken to since
4 December 6th of 1998 are prosecutors and police
5 officers, correct?

6 A. Yes, sir.

7 Q. How many times have you met with the
8 prosecution in this case?

9 A. Once.

10 Q. When was that?

11 A. I can't recall the date. The date I was
12 subpoenaed.

13 Q. Okay. Let's go back a little bit. Let me try
14 to understand the relationship that you have with Shawn
15 England. Who is that?

16 A. He's a mutual friend that I grew up in the
17 neighborhood with.

18 Q. Did you both go to high school together?

19 A. No, sir.

20 Q. How long have you known him for?

21 A. Since about '93.

22 Q. About how old is Shawn?

23 A. Shawn is about twenty-five, twenty-six now.

24 Q. What does he do for a living?

25 A. He works for Wal-Mart now.

131 Q. Wal-Mart. Okay. How does he introduce you to
 2 Mr. Mamou? Kind of walk us through that, how you first
 3 meet.
 4 A. First time we met, we was at his house and --
 5 Q. At Shawn's house?
 6 A. At Shawn's house. And he told me, This is
 7 Chucky from Louisiana. And we just drank beers and just
 8 got a feel of each other, you know.
 9 Q. What does that mean, you got a feel for one
 10 another? You talk to him about --
 11 A. Just casual conversation, talking and --
 12 Q. How long did you socialize for when you're
 13 sitting around just drinking?
 14 A. Just a couple of hours or so.
 15 Q. When was that?
 16 A. The first time we met was -- I can't recall the
 17 first time we met.
 18 Q. Try to use December 6th as a focal point and go
 19 backwards. Like, was it two weeks before December 6th
 20 that you first met? Was it months before?
 21 A. It was months before. We had met months before
 22 that.
 23 Q. And that's -- so the first time you meet
 24 Mr. Mamou is months before December of 1998?
 25 A. Yes, sir.

133 1 December?
 2 A. I guess you could say that Thursday before that
 3 Sunday.
 4 Q. If December 6th is a Sunday --
 5 A. Yes, sir.
 6 Q. -- then that Thursday would have been the 3rd?
 7 A. 3rd, yes, sir, that night.
 8 Q. Just tell the members of the jury how -- does
 9 he just show up? Does he knock on your door? What does
 10 he do?
 11 A. We had went out that evening.
 12 Q. We? Who's we?
 13 A. Shawn, Todd, a couple of friends. We all went
 14 out, and she asked -- he asked could he stay at the
 15 house. And I gave him permission to stay, and he
 16 stayed.
 17 Q. Okay. Charles, you --
 18 A. Todd.
 19 Q. -- Todd, Shawn. What's Todd's last name?
 20 A. Fish.
 21 Q. Has he got a nickname?
 22 A. No, sir, not that I know of.
 23 Q. The four of you?
 24 A. Yes, sir.
 25 Q. Where did you go?

132 1 Q. So would that be, like, October of 1998, you
 2 think?
 3 A. I couldn't exactly say.
 4 Q. Okay. Couple of months?
 5 A. Yes, sir.
 6 Q. Did you meet him at Shawn's?
 7 A. Yes, sir.
 8 Q. From between that first time and December 6th,
 9 how many other times do you meet him or see him?
 10 A. Just a few other times. Like I said, at
 11 Shawn's house we met. You know, that's it.
 12 Q. So -- and this is before the time that he comes
 13 and he stays at your house?
 14 A. Yes, sir.
 15 Q. Do you know whether or not Mr. Mamou was
 16 actually spending the night at Shawn's house, if you
 17 know?
 18 A. No, sir, I don't know.
 19 Q. Did you ever visit Mr. Mamou at any hotel?
 20 A. No, sir.
 21 Q. Did you ever drive anywhere with Mr. England to
 22 go visit Mr. Mamou and pick him up at a hotel?
 23 A. No, sir.
 24 Q. So after seeing him several times, he appears
 25 at your apartment on Fondren, around like the 3rd of

134 1 A. We went to a club.
 2 Q. Did you go to Foxy's?
 3 A. Yes.
 4 Q. Over on South Post Oak?
 5 A. Yes, sir.
 6 Q. How long did you stay there?
 7 A. We stayed there a few hours or so.
 8 Q. Foxy's is a topless club?
 9 A. Topless club.
 10 Q. Y'all sitting around drinking beer?
 11 A. Yes, sir.
 12 Q. While you were at Foxy's, Mr. Mamou's says,
 13 Hey, you mind if I spend the night at your place?
 14 A. Well, it was right after we left. You know,
 15 after we left Foxy's, he didn't have nowhere to go. So
 16 I -- he asked could he stay at my house, and I let him
 17 stay.
 18 Q. Did he ask Shawn if he could stay at Shawn's
 19 house?
 20 A. I don't know.
 21 Q. Who all was driving with who?
 22 A. We were all in the same vehicle for a while.
 23 Q. Whose vehicle was it?
 24 A. I can't recall whose vehicle we was in.
 25 Q. So that's the first evening that he spends at

135 1 your place?
 2 A. Yes, sir.
 3 Q. When you come home, it's pretty early in the
 4 morning?
 5 A. Late, yes, sir.
 6 Q. So, now we're talking about Friday morning by
 7 the time you guys get home?
 8 A. Yes, sir.
 9 Q. Do you wake your wife up?
 10 A. No, she was already -- she gets up on her own,
 11 and I walk her to the bus stop and puts her on the bus.
 12 Q. So you guys get home closer to 4:00 in the
 13 morning?
 14 A. No, it was about 2:00 or 3:00 that morning.
 15 Q. Now your wife doesn't leave to go to the bus
 16 stop till --
 17 A. 4:30, 4:45.
 18 Q. So, did you just stay up that whole time?
 19 A. No, I went in the room with her for awhile, you
 20 know, talk to her till she gets up.
 21 Q. And Mr. Mamou just spent the night on the
 22 couch?
 23 A. Yes, sir.
 24 Q. Now is that a one or a two-bedroom apartment?
 25 A. It's a one -- two-bedroom. It was a

137 1 Q. You walk off, walk your wife, and then come
 2 back. Mr. Mamou still asleep?
 3 A. Yes, sir.
 4 Q. What time do you all get up?
 5 A. I had to get my daughter up about 7:00 for
 6 school.
 7 Q. Okay. Did she wake up?
 8 A. Yes, sir.
 9 Q. Was she okay that day, or was she ill?
 10 A. She was okay.
 11 Q. You walk her out to school?
 12 A. Walk her to school.
 13 Q. That's at A.A. Mills?
 14 A. A.A. Mills.
 15 Q. That's on Porter Street, right?
 16 A. Yes, sir.
 17 Q. That runs west of Fondren?
 18 A. Yes, sir.
 19 Q. You take her there. You walk back. Mr. Mamou
 20 is still asleep?
 21 A. Yes, sir, basically.
 22 Q. At some point you guys -- does he wake up, or
 23 does he come and wake you up? Do you go to sleep at
 24 that point?
 25 A. No, I just sit up. Usually after I take her to

136 1 two-bedroom.
 2 Q. And your child is how old?
 3 A. She was five at the time.
 4 Q. So she has her own bedroom?
 5 A. Yes, sir, she had her own room.
 6 Q. Now there was some effort on the part of you
 7 and your wife not to be truthful with the police about
 8 your relationship, correct?
 9 A. Yes, sir.
 10 Q. Because that apartment that you're staying in,
 11 you're not supposed to be married if you're living
 12 there, right?
 13 A. Due to the leasing agreement, I wasn't supposed
 14 to be.
 15 Q. Okay. But eventually, you explained to them
 16 that you were husband and wife and not brother and
 17 sister?
 18 A. Yes.
 19 Q. Now when Mr. Mamou gets up the next morning --
 20 well, let me take that back. You walk your wife to the
 21 bus station?
 22 A. Yes, sir.
 23 Q. Chucky's there in the house and your child's
 24 asleep in her room?
 25 A. Yes, sir.

138 1 school, we sit up.
 2 Q. Okay. Y'all sit around and talk?
 3 A. Yes, sir, basically.
 4 Q. Does he -- at some point, do you discuss a
 5 possible drug deal?
 6 A. No, sir, not a particular, no, sir.
 7 Q. Okay. And so, does he spend the whole day with
 8 you?
 9 A. Yes, sir.
 10 Q. And again, this is on Friday?
 11 A. Yes, sir.
 12 Q. This would be the 4th of December?
 13 A. Yes, sir.
 14 Q. And you guys go and play basketball at that
 15 point?
 16 A. No, he left.
 17 Q. He leaves?
 18 A. Yeah.
 19 Q. All right. He doesn't have a cell phone with
 20 him, as far as you know?
 21 A. No, sir, not that I know.
 22 Q. What is -- is he bringing an overnight bag with
 23 him? Is he wearing the clothes on his back?
 24 A. Clothes on his back.
 25 Q. What time does he come back?

139 A. I can't recall what time he came back.
 1 Q. Okay. But he comes back at some point?
 2 A. Yes, sir.
 3 Q. And you guys go out again that night, Friday
 4 evening?
 5 A. No, sir. I stayed in. I don't recall going
 6 back out Friday.
 7 Q. Does Mr. Mamou spend the night Friday night?
 8 A. Yes, sir.
 9 Q. At some point does your wife say to you, you
 10 know, who's this guy that --
 11 A. She -- we all sat down and had a conversation
 12 together.
 13 Q. Everybody was cool with it?
 14 A. It was fine.
 15 Q. So we get through Friday. Now Saturday, are
 16 there people coming over to your apartment while he's
 17 there?
 18 A. Yes, sir, Shawn and, you know, just mutual
 19 friends that come over from time to time.
 20 Q. Okay. Who are some of the other mutual friends
 21 between you and Shawn?
 22 A. Ken.
 23 Q. What is Ken's name?
 24 A. I just know him by Ken. I just know him by

141 A. Right across the street.
 1 Q. On Fondren?
 2 A. Yes, sir.
 3 Q. How long have you known Bug?
 4 A. I guess I known Bug for a few years.
 5 Q. Three or four years?
 6 A. You can say, I guess. Like I said, I met him
 7 through Shawn as mutual friends.
 8 Q. So the full day on Saturday, are you pretty
 9 much alone with these other folks that come over?
 10 You're pretty much with Mr. Mamou most of Saturday?
 11 A. Yes, sir, we were at the house all day
 12 Saturday.
 13 Q. Is there a lot of phone activity back and
 14 forth?
 15 A. Yes, sir, bunch of phone calls back and forth.
 16 Q. And the phone calls are coming in on your
 17 telephone line?
 18 A. Yes, sir.
 19 Q. Which is not a cell phone; it's just a regular
 20 phone hooked into the wall?
 21 A. Yes, sir.
 22 Q. Did you do anything Saturday night in terms of
 23 going out or anything?
 24 A. No, sir, just hung around the house.

140 Ken.
 1 Q. Any nickname?
 2 A. No, sir.
 3 Q. How does he get around?
 4 A. By bicycle. He stayed around the corner. He
 5 came over by bike.
 6 Q. Who else would have come over?
 7 A. Like Todd, and that's about it.
 8 Q. Did you ever meet a fellow by the name of
 9 Terrence Dodson?
 10 A. No, sir.
 11 Q. You ever meet a fellow by the name of Samuel
 12 Johnson?
 13 A. No, sir.
 14 Q. That's a person they're referring to as Bug?
 15 A. No, I know Bug.
 16 Q. Did you know Bug before you met Mr. Mamou?
 17 A. Yes, sir.
 18 Q. How you been knowing Bug?
 19 A. Through Shawn, the same person.
 20 Q. Would you socialize with Mr. Johnson?
 21 A. Yes, sir. We would go out to movies and stuff,
 22 all our family and stuff, kids and all.
 23 Q. All right. Y'all live pretty close to one
 24 another back then?

142 Q. Sunday morning comes around. What time do
 1 y'all get up, if you recall?
 2 A. Me and my wife, we got up and went to church
 3 about 9:00, 10:00.
 4 Q. Take your daughter with you?
 5 A. Yes, sir.
 6 Q. And Mr. Mamou is still asleep?
 7 A. Yes, sir. Well, he was up, but he was still at
 8 the house.
 9 Q. Okay. And everybody's still cool? He can just
 10 stay there? You guys going to go out?
 11 A. We went to church right across the street,
 12 Braeswood Assembly.
 13 Q. Right there by Willowbend?
 14 A. Yes, sir.
 15 Q. So after you go to church and you come back, do
 16 you all eat? Do you go out for lunch or anything like
 17 that?
 18 A. No, we stayed at the house and ate.
 19 Q. Get us through all of Saturday. Fairly
 20 uneventful; nothing special happening?
 21 A. No, sir.
 22 Q. Same people that might be coming by to visit
 23 with you?
 24 A. Not in particular, no, sir.

143 Q. All right. So now we're on to Sunday?
 1 A. Yes, sir.
 2 Q. At some point, is there anything unusual
 3 happening up to the point in time when Mr. Mamou leaves
 4 with Bug?
 5 A. No, sir, just phone calls.
 6 Q. Phone calls. Are you asking him, Man, how come
 7 you're getting so many phone calls?
 8 A. No, sir.
 9 Q. Somebody just staying a couple of nights, this
 10 is a lot?
 11 A. He stayed to hisself, basically.
 12 Q. And you didn't ask any questions?
 13 A. No, sir.
 14 Q. So as I understand your testimony, at about
 15 somewhere between noon and 2:00 o'clock, does Bug come
 16 over and pick up Mr. Mamou?
 17 A. Yes, sir.
 18 Q. Does he come knock on your door and say, Hey,
 19 Chucky, we're ready to go?
 20 A. No. We was kind of like on the porch, and he
 21 pulls up and leaves.
 22 Q. So does your apartment overlook the swimming
 23 pool?
 24 A. You can see the swimming pooling to the left

145 Q. Would you have any other number to give them to
 1 try and contact Chucky?
 2 A. No, sir.
 3 Q. Can you tell me how many calls you think you
 4 received? Just an estimate?
 5 A. I can't sit up and give an estimate.
 6 Q. All right. He comes back about 7:00 p.m.?
 7 A. Yes, sir.
 8 Q. It's dark out at this point, correct?
 9 A. Yes, sir.
 10 Q. Who all is with Bug and Chucky when they come
 11 back at 7:00?
 12 A. Just Chucky and Bug, I guess.
 13 Q. Well, do they come up to the apartment and come
 14 in for a beer or something?
 15 A. Yes, sir, they came upstairs and sat for a
 16 minute; and made a few more phone calls.
 17 Q. Is Bug making any phone calls?
 18 A. No, sir.
 19 Q. Are you talking to -- the three of you talking
 20 about what's going down?
 21 A. No, sir, we're just sitting outside, just
 22 casual conversation, you know.
 23 Q. You never inquired why your friend, Bug, and
 24 why Mr. Mamou was driving off and driving around?

144 from the porch and parking lot to the right.
 1 Q. Okay. And so, does he come up to your
 2 apartment to get Mr. Mamou?
 3 A. I guess he goes down to the car, whatever.
 4 Q. Do you see him go down there and meet up with
 5 Mr. Johnson?
 6 A. Yes, sir.
 7 Q. And they drove off together?
 8 A. Yes.
 9 Q. Did you know that Bug was coming over to pick
 10 him up?
 11 A. I have -- not really. I didn't know who was
 12 coming to get him. I knew he had a ride coming, though.
 13 Q. Did he say he was going to go take a ride with
 14 someone?
 15 A. Yes, sir.
 16 Q. Did he ask you to come along?
 17 A. No, sir.
 18 Q. So, he leaves. And during that time period
 19 when he's gone, are you getting any phone calls?
 20 A. Phone still ringing, basically.
 21 Q. Who's calling?
 22 A. I don't know the guy. Like I said, they called
 23 and asked for Chucky, and you tell them, Chucky is not
 24 here, and that would be the end of it.

146 A. No, sir.
 1 Q. So they leave a few minutes later?
 2 A. Yes, sir.
 3 Q. And they're gone for how long?
 4 A. I guess for a few -- like I said, by the time
 5 he came back, it was about 2:00 or 2:30.
 6 Q. So, we've got a long stretch of time here where
 7 they're gone?
 8 A. Yes, sir.
 9 Q. This is very important. Between 7:00 p.m.,
 10 when Bug comes over to pick up Mr. Mamou, and the time
 11 that you recall Mr. Mamou coming back, I want you to
 12 tell me what you and your wife and other people that may
 13 have been there were doing.
 14 A. Well, my wife was in the room watching TV. I
 15 was outside.
 16 Q. Hang on a second. Your wife is watching TV.
 17 Was she pretty much staying in the room watching TV most
 18 of the night?
 19 A. Yes, sir, she stayed away from us.
 20 Q. She stayed away from whatever was happening?
 21 A. Company, yes, sir.
 22 Q. And does she ultimately fall asleep in there?
 23 A. Yes, sir.
 24 Q. You're where?

147 A. We are outside on the front porch.
 1 Q. You said "we're." Who is the group?
 2 A. It was me, Ken, Shawn, and that's it.
 3 Q. How about Germane?
 4 A. Who?
 5 Q. Was there a Germane there?
 6 A. No, sir.
 7 Q. Again, how does Ken get there?
 8 A. On the bike.
 9 Q. On the bike. How does Shawn get there?
 10 A. He had a car, I guess. He was out.
 11 Q. Did you see him come in a car?
 12 A. I didn't see him come in a car, but he came
 13 with his kids that day. He had brought his kids over
 14 that day.
 15 Q. But his kids still weren't there late into the
 16 night, right?
 17 A. No, sir, it wasn't late. He had took them
 18 home.
 19 Q. Did his wife come and take them home?
 20 A. No, he took them home.
 21 Q. When he came back to see you later in the night
 22 without the kids, you don't know whether he had a car or
 23 not, do you?
 24 A. No, sir.
 25

149 1 that, around that time.
 2 Q. And Ken?
 3 A. Ken left around about the same time. The whole
 4 house emptied around about the same time.
 5 Q. And at what time do you go to bed?
 6 A. I went right after that, I guess about 11:00 or
 7 12:00.
 8 Q. I'm sorry?
 9 A. About 11:00 or 12:00, something like that.
 10 Q. Any phone calls coming in during the night?
 11 A. Same phone still just ringing, asking for
 12 Chuck.
 13 Q. Get quite a few calls even while you're sitting
 14 around with Ken and Shawn and your wife's watching TV in
 15 the other room?
 16 A. Yes, sir.
 17 Q. And it never causes you to make any comment at
 18 all to others or your wife that, Man, Chucky is getting
 19 an awful lot of phone calls?
 20 A. No, sir.
 21 Q. Wonder what he's up to?
 22 A. No, sir.
 23 Q. So are you awoken, by telephone calls even
 24 after you go to bed?
 25 A. No, sir, no more phone calls. After awhile it

148 1 Q. What are y'all doing?
 2 A. Just sitting around chatting.
 3 Q. Okay.
 4 A. Just at the house.
 5 Q. Having a couple of beers or what?
 6 A. Just sitting around.
 7 Q. Are you outside on the patio?
 8 A. Kind of like back and forth, from the inside to
 9 the porch, inside to the porch.
 10 Q. Any discussion going on between you and Shawn?
 11 A. No, sir.
 12 Q. Are you making any comments to any of the
 13 people that -- your company there -- that Chucky and Bug
 14 been gone for a long time?
 15 A. No, sir.
 16 Q. Not even entering your mind?
 17 A. No, sir.
 18 Q. Who do you see leave and at what time?
 19 A. Shawn left for -- he had to go pick his cousin
 20 up from work; and then Ken left, and it was just me and
 21 my wife at the house.
 22 Q. Okay. And what time do you recall going to
 23 bed? Well, let me say, what time do you recall Shawn
 24 leaving?
 25 A. I guess about 10:00, 11:00, something like

150 1 wasn't no more phone calls.
 2 Q. Is that because you pulled a plug out of the
 3 phone or --
 4 A. No, it just stopped ringing.
 5 Q. What time do you remember Mr. Mamou coming to
 6 your door?
 7 A. Later on that evening, about 2:30.
 8 Q. And did he say anything to you when he came in
 9 at 2:30?
 10 A. No, sir.
 11 Q. Did you ask him where he had been?
 12 A. No, sir.
 13 Q. Was he alone?
 14 A. Yes, sir.
 15 Q. He didn't have a key to your place; he had to
 16 knock on the door?
 17 A. Yes, sir.
 18 Q. After you let him in, did you then go back into
 19 your bedroom?
 20 A. Yes.
 21 Q. Did you wake your wife or anything?
 22 A. She was already still asleep. I just laid back
 23 down.
 24 Q. And the next morning, later that morning, you
 25 wake up again. Were you going to take your wife to

151 1 work? Now this is Monday morning?
 2 A. Yes, sir.
 3 Q. Which would be the 7th of December?
 4 A. Yes, sir.
 5 Q. And you come out, and Mr. Mamou is asleep?
 6 A. Yes, sir.
 7 MR. HILL: May I have just a moment?
 8 Q. (BY MR. HILL) Mr. Scott, you ever been
 9 convicted of a felony in this state?
 10 A. Yes.
 11 Q. What type of charge is that?
 12 A. Unlawfully carrying a weapon on a liquor
 13 license premises and possession of a controlled
 14 substance.
 15 Q. And what type of controlled substance?
 16 A. PCP.
 17 Q. Is that angel dust?
 18 A. I guess that's what they call it.
 19 Q. And how long did you serve on those, or what
 20 were your sentences?
 21 A. I had a seven-year probation and a five-year
 22 probation.
 23 Q. And I take it they were revoked and you went to
 24 the penitentiary?
 25 A. Yes, sir.

153 1 A. He just came back to the door, thinking that
 2 everybody was still there. It wasn't nobody there, so
 3 he left again.
 4 Q. And he was with Ken at the time?
 5 A. No. Ken was already gone, too.
 6 Q. Well, when Shawn is there, I mean, is it right
 7 at midnight? Is it 1:00 o'clock? Do you know what time
 8 it is?
 9 A. I can't recall the time.
 10 Q. Sometime before 2:30, when Mr. Mamou shows up?
 11 A. Yes, sir.
 12 Q. So it could have been anywhere from about
 13 midnight to 2:30 in the morning?
 14 A. Yes, sir, could have been.
 15 Q. And when you say he then leaves, do you say
 16 good-bye to him at your front door and you close the
 17 door and go back to bed?
 18 A. Yes, sir.
 19 Q. So you don't actually see where he goes to at
 20 that point? He's not inside your apartment?
 21 A. No, sir.
 22 Q. Thank you.
 23 MR. HILL: I have no further questions.
 24
 25

152 1 Q. Never had any kind of misdemeanor involving
 2 moral turpitude, like a theft or prostitution or
 3 anything like that?
 4 A. No, sir.
 5 MR. HILL: No further questions.
 6 REDIRECT EXAMINATION
 7 BY MR. MCCLELLAN:
 8 Q. Mr. Scott, you talked about Shawn England being
 9 there at your house with his kids for a while, and then
 10 he left. When Shawn came back around midnight or a
 11 little after, how long did he stay before he left again?
 12 A. I guess about thirty or forty minutes.
 13 Q. So he left again about 12:00, 12:45 or 1:00
 14 o'clock?
 15 A. Yes, sir.
 16 MR. MCCLELLAN: Pass the witness, Your
 17 Honor.
 18 RECROSS-EXAMINATION
 19 BY MR. HILL:
 20 Q. Well, see if I understand this, Mr. Scott;
 21 because when I was asking you this, you said you went to
 22 bed at 11:00 or 12:00; and the next thing you know when
 23 you woke up was the defendant, about 2:30, coming home.
 24 How did -- what was it that Shawn did that got your
 25 attention after midnight to tell you that he was there?

154 1 FURTHER REDIRECT EXAMINATION
 2 BY MR. MCCLELLAN:
 3 Q. Do you recall giving a statement to the police?
 4 A. Yes, sir.
 5 Q. And on that statement, did you put down certain
 6 times that you said Shawn England came back to the
 7 apartment?
 8 A. Yes, sir.
 9 MR. MCCLELLAN: May I approach the
 10 witness, Your Honor?
 11 THE COURT: Yes.
 12 MR. HILL: May we approach?
 13 (Off-the-record discussion.)
 14 Q. (BY MR. MCCLELLAN) Do you recognize this
 15 three-page document?
 16 A. Yes.
 17 Q. The statement you gave?
 18 A. Yes.
 19 Q. And this statement was given back on December
 20 9th?
 21 A. Yes, sir.
 22 Q. Let me direct your attention to the statement
 23 where you've talking about Shawn coming back.
 24 A. Yes, sir.
 25 Q. Just read that to yourself.

155 A. Shawn --
 1 Q. To yourself, not out loud. Does that refresh
 2 your memory as to what time Shawn came back?
 3 A. Yes, sir.
 4 Q. What time do you recall Shawn coming back to
 5 your apartment?
 6 A. About 12:00.
 7 MR. MCCLELLAN: I'll pass the witness,
 8 Your Honor.
 9 MR. HILL: May I approach the witness?
 10 THE COURT: Yes.
 11 FURTHER RECROSS-EXAMINATION
 12 BY MR. HILL:
 13 Q. Do you remember what you testified in terms of
 14 when Ken left?
 15 A. Yes.
 16 Q. What was your testimony?
 17 A. It had to be about 12:00 o'clock.
 18 Q. Let me go ahead and show you the same document
 19 that Mr. McClellan did. And again, read it to yourself
 20 quietly and silently?
 21 A. Yes.
 22 Q. Does that refresh your recollection as to what
 23 time Ken left?
 24 A. Yes, sir.

157 Q. Okay. So you're positive it couldn't have been
 1 later than 12:45?
 2 A. No, sir.
 3 Q. Okay. Thank you.
 4 MR. HILL: Pass the witness.
 5 MR. MCCLELLAN: I have nothing further,
 6 Your Honor.
 7 THE COURT: Call your next, please.
 8 MR. MCCLELLAN: Call Thad Badeaux.
 9 THAD BADEAUX,
 10 having been first duly sworn, testified as follows:
 11 DIRECT EXAMINATION
 12 BY MR. MCCLELLAN:
 13 Q. State your name for the record, please.
 14 A. Thad Badeaux.
 15 Q. Mr. Badeaux, how are you employed?
 16 A. Lafayette Parish Sheriff's Office.
 17 Q. Be sure and speak up so everybody can hear what
 18 you have to say. I assume in Louisiana?
 19 A. Yes, sir.
 20 Q. How long have you been employed with the
 21 sheriff's office?
 22 A. Eighteen years.
 23 Q. And what -- do you have a division you're
 24 assigned to, or what is your rank or --
 25

156 Q. What time would that be?
 1 A. About 12:30, 12:45.
 2 Q. Okay. Well --
 3 A. 12:45.
 4 Q. 12:45?
 5 A. Yes, sir.
 6 Q. Okay. So, Ken would have left after Shawn
 7 left?
 8 A. I assume, yes, sir.
 9 Q. So when Ken was there until 12:45, what were
 10 y'all doing?
 11 A. Just sitting around, just me and him, just
 12 sitting around still chitchatting and talking and
 13 drinking beer.
 14 Q. Okay. I'm just going to ask you this, because
 15 I know times are difficult to remember.
 16 A. Yes, sir.
 17 Q. But when I asked you earlier whether the time
 18 could have been as early as midnight or up to sometime
 19 before 2:30 when you say Mr. Mamou got there, does
 20 reviewing that statement specifically refresh your
 21 memory that it was 12:15 and 12:45?
 22 A. Yes.
 23 Q. Or could it have been later than that?
 24 A. That refreshed my memory to the time frame.

158 A. Presently assigned to the crimes against
 1 persons division.
 2 Q. Crimes against persons division?
 3 A. Yes, investigator with the sheriff's office.
 4 Q. All right. Let me direct your attention, if I
 5 can, back to December the 8th of 1998. Did you have an
 6 occasion to talk to a Detective Novak of the Houston
 7 Police Department?
 8 A. Yes, I did.
 9 Q. And as a result of a conversation with him, did
 10 he ask you to look in your jurisdiction to try to find a
 11 certain person?
 12 A. Yes, he did.
 13 Q. Who were you asked to try to locate?
 14 A. Charles Harold Mamou, Jr., also known as
 15 Chucky.
 16 Q. All right. Did you begin trying to determine
 17 whether or not there was a Charles Mamou, Jr. living in
 18 the Lafayette Parish area?
 19 A. Yes, sir, I did.
 20 Q. And did you go to some locations in Louisiana
 21 to try to find this Charles Mamou, Jr.?
 22 A. Not on the first day he contacted me. I used
 23 resources around the office, located the information on
 24 a Harold, Charles Harold Mamou, Jr. that we had.
 25

163 many officers were there to effectuate this arrest?
1 A. It's in my report, if you let me count real
2 quick.
3 Q. Sure, take a moment.
4 A. Probably six of us, I believe.
5 Q. Okay. That's all I have. Thank you.
6 MR. HILL: Judge, pass the witness.
7 MR. MCCLELLAN: May this witness be
8 excused?
9 THE COURT: Any objection?
10 Call your next, please.
11 MR. MCCLELLAN: May we approach?
12 THE COURT: Yes.
13 Ladies and gentlemen, if you would, please
14 go back in the jury room.
15 (Brief recess.)
16 (Jury is brought in and seated.)
17 THE COURT: Please be seated.
18 Call your next, please.
19 MR. MCCLELLAN: State would call Terrence
20 Dodson.
21 THE COURT: Proceed, please.
22
23
24
25

165 1 Q. And how is the defendant -- you say he's your
2 first cousin?
3 A. I'm not sure. He's my cousin.
4 Q. All right. So how long have you known him?
5 A. All my life.
6 Q. Do you recognize Charles Mamou, Jr., in the
7 courtroom here today?
8 A. Yes.
9 Q. Could you point him out and briefly describe
10 something he's wearing today?
11 A. The black suit jacket with the maroon shirt.
12 MR. MCCLELLAN: Your Honor, may the record
13 reflect the witness has identified the defendant?
14 THE COURT: It may.
15 Q. (BY MR. MCCLELLAN) Let me direct your
16 attention back to December the 6th of 1990. Did you
17 have an occasion on that day to see Charles Mamou, Jr.?
18 It was a Sunday.
19 A. I'm not sure about the date, but if it was his
20 birthday, yeah.
21 Q. Was that a Sunday, or do you recall?
22 A. I believe it was.
23 Q. All right. And where -- where did you see him,
24 or what time of day did you come in contact with him?
25 A. It was in the morning.

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1 TERRENCE DODSON,
2 having been first duly sworn, testified as follows:
3 DIRECT EXAMINATION
4 BY MR. MCCLELLAN:
5 Q. Mr. Dodson, I want you to speak so the ladies
6 and gentlemen of the jury can hear what your answers
7 are, okay? You have to answer out, yes or no.
8 A. All right.
9 Q. Try to use the microphone there. Mr. Dodson,
10 how old are you?
11 A. Twenty-two.
12 Q. And are you employed?
13 A. Yes.
14 Q. Where do you work?
15 A. I'm a truck driver for M.S. Carriers.
16 Q. Do you live here in Harris County?
17 A. Yes.
18 Q. Do you know the person, Charles Mamou, Jr.?
19 A. Yes.
20 Q. And how do you know him?
21 A. That's my cousin.
22 Q. Are you originally from Sunset, Louisiana?
23 A. No, I'm not.
24 Q. Do you have relatives there?
25 A. Yes.

166
1 Q. And how did you get to come to meet him or be
2 with him that morning?
3 A. Well, he gave me a call and told me that he had
4 a lick for a key. So I said, Come get me.
5 Q. What is a lick for a key?
6 A. Someone that was willing to sell a key.
7 Q. All right. And so he came over to your house?
8 A. Yes.
9 Q. Where do you live?
10 A. Southwest.
11 Q. What area of the southwest? I mean, what
12 street?
13 A. Beechnut.
14 Q. When he came over to get you, was he by himself
15 or with someone?
16 A. He was with someone.
17 Q. Okay. What kind of car were they in?
18 A. Like a red -- it looked like an Intrepid, but
19 it ain't an Intrepid.
20 Q. Who all was in the car?
21 A. Charles and the driver.
22 Q. Were you introduced to the driver?
23 A. Yes.
24 Q. Okay. Had you ever met the driver before?
25 A. No.

167 Q. And what did you come to know the driver's name
 1 to be?
 2 A. Either Bud or Buck.
 3 Q. Bud or Buck?
 4 A. I'm not sure.
 5 Q. Let me show you what's been introduced into
 6 evidence as State's Exhibit No. 87. Have you seen that
 7 person before?
 8 A. Yeah, that's him.
 9 Q. So is this the driver of the red car?
 10 A. Yes.
 11 Q. Okay. This is the first time you had met this
 12 person?
 13 A. Yes.
 14 Q. Now show you State's Exhibit No. 40. Does that
 15 look to be like the red car?
 16 A. Yes.
 17 Q. Okay. After they picked you up at your house,
 18 where did y'all go?
 19 A. Went to the convenience store, got some beer
 20 and some newspaper.
 21 Q. Beer and newspaper?
 22 A. Yes.
 23 Q. What did you do after that?
 24 A. We started on our way to the north side.

169 1 evidence as State's Exhibits 86 and 83. You seen these
 2 two people before?
 3 A. That's them.
 4 Q. So these are the two people you met at
 5 Northline?
 6 A. Yes.
 7 Q. And when you got to Northline, who got out of
 8 your car, if anybody?
 9 A. Me and Charles got out.
 10 Q. Who did?
 11 A. Me and Charles.
 12 Q. All right. And did anybody get out of the
 13 Lexus?
 14 A. Them two got out.
 15 Q. The two people that were in --
 16 A. Yes.
 17 Q. Is that all that were in the Lexus, the two?
 18 A. Yes.
 19 Q. Where did y'all meet?
 20 A. At Papa's Barbeque.
 21 Q. Outside?
 22 A. Yes.
 23 Q. In between cars?
 24 A. Yes.
 25 Q. And what was discussed?

168 1 Q. Was there a period of time when you rode around
 2 before you arrived on the north side?
 3 A. I can't really recall.
 4 Q. How long did it take you to get to the north
 5 side? Do you know?
 6 A. Roughly, about thirty minutes.
 7 Q. Whereabouts did you go on the north side?
 8 A. We pulled into the mall parking lot. I believe
 9 the mall is Northline.
 10 Q. Okay.
 11 A. I ain't sure.
 12 Q. Was it near a particular store or a restaurant?
 13 Do you recall?
 14 A. Papa's Barbeque.
 15 Q. And there were three people in your car?
 16 A. Yes.
 17 Q. And did you meet another vehicle there?
 18 A. Yes.
 19 Q. What type of vehicle?
 20 A. Lexus.
 21 Q. What color?
 22 A. Blue.
 23 Q. How many people in that car?
 24 A. Two.
 25 Q. Let me show you what's been introduced into

170 1 A. The -- how much they wanted for it, and we
 2 introduced each other.
 3 Q. How much they wanted for what, the kilo?
 4 A. Yes.
 5 Q. So y'all were going to buy a kilo from them?
 6 That was the plan?
 7 A. Yes.
 8 Q. Did Charles Mamou have anything with him when
 9 he got out?
 10 A. Cut-up newspaper.
 11 Q. Let me show you State's Exhibit No. 31. Is
 12 this the type of bag?
 13 A. Yes.
 14 Q. And the newspaper you had? Was that the
 15 money? That was supposed to be the money?
 16 A. It was the newspaper, yes.
 17 Q. But it was newspaper?
 18 A. Yeah.
 19 Q. So did -- was a deal made right there?
 20 A. Nope.
 21 Q. Where did y'all go then?
 22 A. The driver of the Lexus kept talking about it
 23 was too hot, so they told us follow them. We followed
 24 them. We went to a Pigly Wiggly grocery store parking
 25 lot.

171 Q. Do you know what street that was on?
 1 A. I don't recall.
 2 Q. And was the store open or closed?
 3 A. Closed.
 4 Q. Is this during daylight or nighttime hours?
 5 A. It had just started turning dark.
 6 Q. And at this store, did y'all park in the
 7 parking lot or what?
 8 A. Yes.
 9 Q. Who got out of the cars there?
 10 A. Charles got out first. Then I got out. Then
 11 the two guys in the Lexus got out.
 12 Q. Same type of discussion about doing the dope
 13 deal?
 14 A. Pretty much.
 15 Q. What were the two guys wanting you to do?
 16 A. Give them the money, let them go get the dope
 17 on foot, and they want us to wait.
 18 Q. Didn't want to do that?
 19 A. No.
 20 Q. Any other plans that were kicked about? They
 21 just wanted to take the money and go and come back? Is
 22 that basically the only plan?
 23 A. That's basically it, yeah.
 24 Q. Did a deal happen there?

173 A. He told me that he told the other cousin,
 1 Anthony, to come pick me up so we can pick him up off
 2 Fondren.
 3 Q. And this Anthony is Anthony Trail?
 4 A. Yes.
 5 Q. So did Anthony come by and pick you up?
 6 A. Yes.
 7 Q. And y'all went where?
 8 A. Off Fondren.
 9 Q. And did you drive to a particular location to
 10 pick him up or what?
 11 A. Met him at a Burger King.
 12 Q. How did he arrive at the Burger King?
 13 A. Well, when we was pulling up, he was walking
 14 over.
 15 Q. Did he get in the car with you?
 16 A. Yes.
 17 Q. Did he say why he wanted y'all to pick him up
 18 whenever he was talking to you?
 19 A. Just say, Come get him.
 20 Q. So this is Monday morning, then, you pick him
 21 up at a location there at Burger King. When he gets to
 22 the car, what does he say?
 23 A. Told us he have a Lexus.
 24 Q. Did he show you anything?

172 A. No.
 1 Q. So, did y'all leave from that location?
 2 A. Yes.
 3 Q. Where did you go then?
 4 A. I made him drop me off home.
 5 Q. Why?
 6 A. Because I seen it wasn't happening. It wasn't
 7 going to work.
 8 Q. About what time did they drop you off home, if
 9 you know?
 10 A. Roughly about 7:00 or 8:00.
 11 Q. Okay. After they dropped you off, this would
 12 be Sunday evening, right?
 13 A. Yes.
 14 Q. Did you see Charles Mamou or Bug anymore that
 15 night?
 16 A. No.
 17 Q. The next morning was Monday?
 18 A. Yes.
 19 Q. Did you hear from Charles Mamou on Monday
 20 morning?
 21 A. Yes.
 22 Q. And did he call you or what?
 23 A. Yes.
 24 Q. What did he ask?

174 A. Some keys.
 1 Q. And were those supposedly the keys for the
 2 Lexus?
 3 A. Yeah.
 4 Q. Did he tell you what type of Lexus or what
 5 color or anything?
 6 A. Yeah, later on in detail, yeah.
 7 Q. What detail did he tell you?
 8 A. That he purchased the blue Lexus.
 9 Q. Okay. Now prior to the time that you met
 10 with -- you met with Charles on that Monday morning, had
 11 you seen any news reports about anything that had
 12 happened that night?
 13 A. You mean, did I see any news reports before I
 14 picked him up?
 15 Q. Before you picked him up.
 16 A. No.
 17 Q. Okay. Was there conversation between you and
 18 Anthony and the defendant about this Lexus?
 19 A. Yes.
 20 Q. Did he describe the Lexus more than just the
 21 color of the Lexus? Did somebody ask him what color it
 22 was?
 23 A. Yes.
 24 Q. Did he say what color it was?

175

1 A. Yes.

2 Q. Now do you know whether or not Anthony Trail
3 had seen any news coverage?

4 A. Yes.

5 MR. HILL: Judge, I object. It calls for
6 speculation and hearsay.

7 THE COURT: Well, I don't know how it came
8 about. It is possible.

9 Could you rephrase it, please?

10 Q. (BY MR. MCCLELLAN) Well do you know whether or
11 not -- well, let me ask you this: In the car, was there
12 a discussion about the news?

13 A. Yes.

14 Q. Did the defendant say in the car what color the
15 Lexus was?

16 A. Yes, he did.

17 Q. Did he say anything about the type of wheels
18 that it had?

19 A. I don't recall.

20 Q. What color did he say it was?

21 A. Blue.

22 Q. How long were you with the defendant on that
23 morning?

24 A. After we picked him up, I got dropped off again
25 to the house.

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1 first of all, where was Anthony going to take the
2 defendant when he left with you? Do you recall?

3 A. They was going to eat at Anthony's house.

4 Q. Do you recall whether or not you talked to the
5 defendant about him going back to Louisiana?

6 A. Yes.

7 Q. When was that?

8 A. When they had came back from eating. They had
9 came back to the house.

10 Q. So this is still on Monday?

11 A. Yes.

12 Q. So Anthony and the defendant came back to your
13 house?

14 A. Yes.

15 Q. What was the defendant saying about going to
16 Louisiana?

17 A. Just that he fixing to go back home.

18 Q. And how was he going to get back there?

19 A. The bus.

20 Q. And who was going to take him?

21 A. Anthony.

22 Q. Pardon?

23 A. Anthony.

24 Q. Okay. Did you later receive a call from the
25 defendant while he was in Louisiana?

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1 Q. Okay. All right. Where Anthony picked you up,
2 he just took you back?

3 A. Yes.

4 Q. Did Anthony and the defendant then leave in
5 Anthony's car?

6 A. Yes.

7 Q. After you were dropped off, did you, later that
8 day, see some news reports?

9 A. Yes.

10 Q. Did you talk with the defendant later that day
11 after he had been dropped off at the house?

12 A. Little bits and pieces.

13 Q. Bits and pieces?

14 A. Yeah.

15 Q. That means what?

16 A. I just asked him, you know what I'm saying?
17 Where did he get the car?

18 Q. Did he tell you where he got the car?

19 A. He told me he purchased it.

20 Q. Okay. So did he call you sometime during that
21 day after you had been dropped off?

22 A. No, I don't recall.

23 Q. You don't recall him calling you?

24 A. No.

25 Q. Okay. Do you recall the defendant -- well,

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1 A. Yes.

2 Q. Did he make any inquiries of you as to what was
3 being said in the news?

4 A. No. He was just asking me, What is the news
5 saying? What's going on?

6 Q. All right. Was he asking about anything in
7 particular in the news?

8 A. I don't recall.

9 Q. Did you talk to him about the news reports
10 about a Lexus --

11 A. Yes.

12 Q. -- being taken?

13 A. Yes.

14 Q. About a girl missing?

15 A. Yes.

16 Q. And did he tell you about that incident?

17 A. Yes.

18 Q. Can you tell us what he told you about that
19 incident?

20 A. He told me that it was a jack on a jack.

21 Q. What does a jack on a jack mean?

22 A. Robbery on a robbery.

23 Q. Okay.

24 A. That those guys didn't have a kilo.

25 Q. Okay.

179 A. They had a Bible wrapped up.
 1 Q. Okay.
 2 A. Shoot out happened, and he burned off.
 3 Q. And he burned off in what?
 4 A. In the Lexus, with the female.
 5 Q. With the girl in the car?
 6 A. Yes.
 7 Q. Now you say there was a shoot-out. Did he tell
 8 you whether or not anyone shot at that scene other than
 9 him?
 10 A. I don't recall. He didn't tell me, no.
 11 Q. Do you recall him telling you only he shot?
 12 A. I don't recall that, either. I recall him
 13 telling me he did some shooting.
 14 Q. In fact, he described to you the people that he
 15 shot, did he not? He described shooting the people?
 16 A. Yes.
 17 Q. And can you tell us what he said about shooting
 18 the people?
 19 A. He said he shot one dude in the arm.
 20 Q. Okay.
 21 A. Shot another dude, if I'm not mistaken, I
 22 believe it was three times.
 23 Q. Once in the back?
 24 A. Yeah. When the dude got out to run, he shot

181 A. All I remember was Sugar Land.
 1 Q. Do you remember about what he told you whether
 2 it was the inside or outside?
 3 A. Inside, outside?
 4 Q. Outdoors or indoors?
 5 A. Outdoors.
 6 Q. Okay. And did he tell you how many times he
 7 shot her?
 8 A. No. He just say, I shot her.
 9 Q. Did he tell you what the girl was doing at the
 10 time he shot her?
 11 A. No, he didn't tell me what she was doing at the
 12 time he shot her.
 13 Q. Did he tell you what the girl was doing before
 14 he shot her?
 15 A. No, not before he shot her, neither.
 16 Q. Did he tell you why he shot her?
 17 A. I don't recall.
 18 Q. Do you recall making a statement to the Houston
 19 Police Department, Sergeant Novak?
 20 A. Yes.
 21 Q. It was a videotaped statement?
 22 A. Yes.
 23 Q. Do you recall in that videotaped statement
 24 telling Sergeant Novak -- do you recall telling Sergeant

180 him in the back. And he shot another guy.
 1 Q. Did he tell you how he left that scene of the
 2 shooting, what kind of vehicle he left in?
 3 A. Yeah, he drove off in the Lexus.
 4 Q. Did he say where he went after he drove off in
 5 the Lexus with the girl in the back?
 6 A. No.
 7 Q. Well, did he tell you about going to a --
 8 MR. HILL: Judge, I'm going to object to
 9 the leading.
 10 THE COURT: I'm going to allow this
 11 question so far.
 12 Q. (BY MR. McCLELLAN) Did he tell you about taking
 13 the girl to a certain location?
 14 A. Not that I can recall.
 15 Q. Did he ever tell you what happened to the girl?
 16 A. Yes.
 17 Q. What did he tell you happened to the girl?
 18 A. He told me he shot her.
 19 Q. That he shot her?
 20 A. Yes.
 21 Q. Where? Where were they -- where -- as far as
 22 where, I mean the location? Not a street address or
 23 anything, but middle of the street? Inside of an
 24 apartment? Where did he say the shooting occurred?

182 Novak about the -- what the girl was doing at the time
 1 she was shot?
 2 A. No, I don't recall that; but I recall what he
 3 said the girl had did.
 4 Q. Okay. What did he say the girl had did?
 5 A. That she performed oral sex on him.
 6 Q. That was prior to him shooting her?
 7 A. I'm not sure.
 8 Q. Did he tell you what he did with the gun?
 9 A. Yes.
 10 Q. And what did he tell you he did with the gun?
 11 A. Broke it down in three pieces and chunked it.
 12 Q. Again, do you recall telling Sergeant Novak why
 13 Charles Mamou said that he shot the girl?
 14 A. Said because she was looking at him funny, like
 15 she was going to tell. She was scared.
 16 Q. She was going to tell?
 17 A. That's the impression she was giving him.
 18 Q. Okay. Did Charles Mamou ask -- did he ever
 19 call and ask you to get some information about a bus for
 20 him?
 21 A. No, I don't really recall.
 22 Q. Did he ever ask you to check on the bus routes?
 23 A. Yeah, he asked me to check on the bus routes.
 24 Q. Where did he ask you to check on a bus route

183

1 to?

2 A. If I'm not mistaken, I believe Mexico.

3 Q. And did you tell him -- provide him a number he
4 could call?

5 A. Yes.

6 Q. And that was what? What type of number was
7 that?

8 A. The Greyhound bus line.

9 Q. You said that the defendant told you that the
10 shooting occurred outside, and you said something about
11 Sugar Land. Did he give you any type of description
12 about the location, as far as whether it was a house, an
13 apartment, whatever?

14 A. He told me some abandoned houses.

15 Q. After you learned this information from Charles
16 Mamou, did you talk with Anthony Trail --

17 A. Yes.

18 Q. -- and relate to him what Charles told you?

19 A. Yes.

20 Q. Now Anthony Trail, is he also a cousin?

21 A. Yes.

22 Q. Does he also have relatives in Sunset,
23 Louisiana?

24 A. Yes.

25 Q. Did the defendant tell you how the girl -- what

185

1 A. Yes.

2 Q. But you don't have that concern now, do you?

3 A. No.

4 Q. I mean, the only thing you had done was what,
5 take a drive to see about scoring a kilogram of cocaine;
6 but other than that --

7 A. That was it.

8 Q. -- that's it. Let's back up and start over
9 with the events of December 6th, okay?

10 A. All right.

11 Q. How long you been knowing Bug Johnson?

12 A. I told you that was my first time meeting him.

13 Q. Never had seen him before?

14 A. Never.

15 Q. Who's Shawn England?

16 A. I heard the name before, but I don't know him
17 personally.18 Q. You ever met him when you were out in Sunset,
19 Louisiana?20 A. I ain't ever meet him, but I know of him like
21 that, I say.22 Q. But would that have been at his mama's house
23 over in Sunset?

24 A. No.

25 Q. Here in Houston?

184

1 the girl was wearing that he shot, what color her top
2 was and --

3 A. Yes.

4 Q. What did he say?

5 A. A red top with black pants.

6 MR. McCLELLAN: I'll pass the witness.

7 CROSS-EXAMINATION

8 BY MR. HILL:

9 Q. Mr. Dodson, you and I have not spoken, correct?

10 A. Correct.

11 Q. How many times have you visited with
12 Mr. McClellan and other members of the prosecutor's
13 office in this case?

14 A. Roughly, maybe three or four times.

15 Q. Okay. You ever go out to any of the scenes of
16 these alleged offenses?

17 A. Did I ever go to what?

18 Q. You ever drive out to Northline Mall with them
19 or anyplace else?

20 A. No..

21 Q. Okay. And when you met with police officials,
22 had they placed you under arrest at that time?

23 A. No, they didn't place me under arrest.

24 Q. Were you a little concerned about the fact you
25 might be charged with some crime?

186

1 A. No, it was in Sunset.

2 Q. Okay. What about Timmy Thomas?

3 A. Yeah, I know Timmy.

4 Q. Timmy your cousin, also?

5 A. Not to my knowledge.

6 Q. Was Timmy the one that was the driving force
7 behind putting this deal together on December 6th?8 A. Yes, to my knowledge, I heard, yeah, he was the
9 one that set it up.

10 Q. You and Charles had those conversations, right?

11 A. Yes.

12 Q. And you were in for this deal; there wasn't any
13 reservation or hesitation on your part for being
14 involved in it, right?

15 A. Yes.

16 Q. What did you understand the deal to actually
17 come down to? What did you think was actually going to
18 happen?19 A. That they was going to bring the kilo, we were
20 going to bring newspaper, and we was going to rob them.

21 Q. What was your part going to be?

22 A. My part in the robbery?

23 Q. Right.

24 A. To rob them.

25 Q. With what?

187 A. With a gun.
 1 Q. You had a gun?
 2 A. Yeah, I had it on me.
 3 Q. Okay. What kind of gun did you have?
 4 A. 25.
 5 Q. What kind of gun did Bug have?
 6 A. I never seen the gun that Bug had.
 7 Q. All right. Did he have any other kind of
 8 weapon?
 9 A. Bug? Not to my knowledge.
 10 Q. Did you ever see him give Charles Mamou a
 11 weapon?
 12 A. No.
 13 Q. How many shots in that .25 you got?
 14 A. Four.
 15 Q. It was loaded, ready to go at the time you went
 16 on your journey over to Northline Mall?
 17 A. No.
 18 Q. So what is it that you're supposed to do, you,
 19 personally? What is your role on this jack on jack?
 20 Of course, you're not knowing it's a jack on jack at
 21 that point, are you?
 22 A. Exactly.
 23 Q. So what is your role? What are you supposed
 24 to do?
 25

189 1 a dope deal?
 2 A. No. I just left.
 3 Q. Did you discuss it on the telephone before they
 4 came over to pick you up? In other words, when they
 5 showed up to pick you up at your apartment, did you
 6 already know you were going to be involved in a dope
 7 deal?
 8 A. Yes.
 9 Q. For how long before that did you know that?
 10 A. I didn't know it before that, until the call.
 11 Q. How long before they come over to pick you up
 12 did you get the call that said, We're going to go do a
 13 dope deal?
 14 A. I received a call. About fifteen or twenty
 15 minutes later, they picked me up.
 16 Q. It was pretty quick?
 17 A. Yeah.
 18 Q. You ever go visit Charles over at the Shoney's
 19 Inn over on the South Loop?
 20 A. Shoney's Inn?
 21 Q. Uh-huh, not necessarily on December 6th.
 22 A. Yes.
 23 Q. Was he in town for a couple of weeks there?
 24 A. Couple of weeks there?
 25 Q. Before December 6th of 1998, was Charles in

188 1 A. Once I see the dope, I pull out my pistol and
 2 take the dope.
 3 Q. What if there is more than one or two people
 4 there? Is that going to be a problem for you?
 5 A. No, not really.
 6 Q. You're comfortable going in a situation like
 7 that with a gun; and if somebody shows you the dope, you
 8 just going to take the dope?
 9 A. Pretty much.
 10 Q. Now it was clear that you guys were not there
 11 to sell dope to them, right?
 12 A. Yeah, that's clear.
 13 Q. Was this a conversation that you had with both
 14 you, Charles Mamou, and Bug Johnson?
 15 A. True.
 16 Q. Before the three of you set out to do this
 17 deal, was it very clear in everybody's mind as to what
 18 their roles were?
 19 A. True.
 20 Q. How was it that you got picked up? Bug came
 21 over to your place on Beechnut?
 22 A. True.
 23 Q. Was your sister, Stephanie, home at the time?
 24 A. Yes, she was.
 25 Q. Did you tell Stephanie you were going out to do

190 1 town?
 2 A. Yes.
 3 Q. Okay. And you would go see him at the Shoney's
 4 Inn? This would be right around the first of December?
 5 A. I only seen him one time at Shoney's.
 6 Q. So they come and they pick you up. Bug's
 7 driving his red car; and as you drive over there, you
 8 already know you're going to the Northline Mall, right?
 9 A. Yes.
 10 Q. And Bug drives up there. And when you get
 11 there, what are the guys in the blue Lexus saying to
 12 you?
 13 A. Well, after we introduced each other, they was
 14 telling us that it's too hot to do the transaction right
 15 there, meaning --
 16 Q. Not talking about the temperature; you're
 17 talking about --
 18 A. The laws and too many people around, et cetera.
 19 Q. So who was it that chose the Northline Mall
 20 area? Was that Mr. Mamou that planned that?
 21 A. I don't even know.
 22 Q. Okay. It's obviously -- that's out in the wide
 23 open for anybody to be doing a drug deal. It wasn't
 24 very bright, right?
 25 A. You're right.

191 Q. So what is it that Bug Johnson is doing right
 1 at that point?
 2 A. While we're outside talking?
 3 Q. Yeah.
 4 A. Sitting in the car.
 5 Q. Do you ever talk to him?
 6 A. Nope.
 7 Q. You never have any reason to go over and say
 8 anything to him?
 9 A. No, not at that time, no.
 10 Q. At some other time?
 11 A. When I was telling them to take me home.
 12 Q. And that's after the thing falls down at the
 13 Pigly Wiggly?
 14 A. Yes.
 15 Q. So after you stay at the Northline Mall for a
 16 while and you go over to Pigly Wiggly, how does that
 17 scene compare to what you had seen up on the Northline
 18 Mall? What's different about it?
 19 A. That he still -- the driver of the Lexus was
 20 still telling us that he still have to go get the kilo.
 21 Q. Are you starting to get a little bit pissed off
 22 at the fact that these guys keep talking about wanting
 23 to take the money --
 24 A. Yes.
 25

193 you would pull out your gun and rob them?
 1 A. Exactly.
 2 Q. How long did you stay out at the Pigly Wiggly
 3 before you were heading home?
 4 A. Roughly, about twenty minutes.
 5 Q. Are you saying anything? Are y'all talking as
 6 you go back to your apartment on Beechnut? Is there
 7 any conversation that you're involved in with those
 8 three guys?
 9 A. What three guys?
 10 Q. You, Bug, and Charles Mamou -- I'm sorry -- the
 11 other two guys?
 12 A. Well, pretty much, yeah. I was saying that it
 13 ain't going to happen. They're on top of this. Can't
 14 get it.
 15 Q. What do you mean, they were on top of this?
 16 A. We wasn't ready for that. We didn't have no
 17 backup.
 18 Q. Did they seem to have outwitted you?
 19 A. Pretty much.
 20 Q. Were you concerned for your own safety at that
 21 point?
 22 A. Pretty much, yeah.
 23 Q. Why?
 24 A. Because I knew that it wasn't going to happen
 25

192 Q. -- and walk off? Why are you getting upset?
 1 A. Because I knew it wouldn't work like that.
 2 Q. How come?
 3 A. He wants to take the bag of money, which is a
 4 newspaper, on foot and go get the kilo.
 5 Q. Did Charles ever offer to give them that bag
 6 that's been marked as State's Exhibit No. 31 when they
 7 were at Northline Mall?
 8 A. I don't recall.
 9 Q. When you say you don't recall, is that another
 10 way of saying that didn't happen?
 11 A. No, it ain't another way of saying it didn't
 12 happen. I don't remember.
 13 Q. Did you ever have that bag?
 14 A. Yeah, I grabbed it once when we got out the car
 15 at Pappasito's.
 16 Q. What did you say?
 17 A. I told them get back in the car with the money.
 18 Put the money back in the car.
 19 Q. Why did you do that?
 20 A. Just to do it.
 21 Q. Was that part of the plan? Was that part of
 22 the game you were playing?
 23 A. No. I wanted to see the dope first.
 24 Q. Because you figured if you saw the dope, then

194 like that.
 1 Q. Did they seem to be pretty sharp in terms of
 2 figuring out they needed to be the ones walking with
 3 your money rather than you seeing any dope first?
 4 A. Yeah.
 5 Q. Seemed like they were experienced at what they
 6 were doing?
 7 A. Pretty much.
 8 MR. MCCLELLAN: I object. Calls for a
 9 conclusion on the part of the witness.
 10 THE COURT: Sustained.
 11 Q. (BY MR. HILL) Now how much did you understand
 12 that kilo was going to be going for?
 13 A. Twenty thousand.
 14 Q. Was that the going rate for a kilo back in
 15 December of 1998?
 16 A. I don't know.
 17 Q. Now as I understand it, you get dropped off
 18 somewhere between 7:00 and 8:00; and the next contact
 19 you have with Charles is the following morning when --
 20 does he call you, or do you get a call from Anthony
 21 Trail?
 22 A. He calls me.
 23 Q. And tells you that he's already spoken to
 24 Anthony and said that he was going to have Anthony pick
 25

195
1 you up?
2 A. Yes.
3 Q. And that happens pretty quickly, also?
4 A. Yes.
5 Q. So where is it that you find Charles? Where
6 are you going to?
7 A. To the Burger King on Fondren.
8 Q. Where? Do you know where the intersection is?
9 What closest street is it?
10 A. Fondren and Belfort.
11 Q. That's not too far from where this guy, Bug
12 Johnson, lived, right?
13 A. No, it's not too far, no.
14 Q. Do you know where Bug lived?
15 A. Off of Fondren.
16 Q. Had you been there before?
17 A. Yeah.
18 Q. How many times?
19 A. Once or twice.
20 Q. Okay. Did you know Howard Scott?
21 A. The name sounds familiar; but no, don't ring a
22 bell.
23 Q. What about his wife, Robin Scott?
24 A. No.
25 Q. How many other relatives do you have here in

197
1 Q. You didn't mention that in your direct
2 examination about that.
3 A. I also didn't mention the part where -- part
4 where Anthony stated on -- that he seen a carjacking on
5 the Internet.
6 Q. So there was actually something placed on the
7 Internet that there was a carjacking?
8 A. Yes, in a blue Lexus.
9 Q. You're talking about Lantern Point, right?
10 A. I don't know exactly, but --
11 Q. Do you know where Lantern Point Drive is?
12 A. No, I don't.
13 Q. You ever been over by that Astrodome area?
14 A. Yes, I have.
15 Q. So you're not familiar with any kind of
16 television broadcast regarding the case that we're in
17 trial for here prior to picking up Charles Mamou on
18 Monday morning?
19 A. No.
20 Q. When is the first time you see a TV report of
21 that?
22 A. When they dropped me off home and they went to
23 go eat.
24 Q. When you saw that, was it obvious to you that
25 maybe there was some connection there? Did it concern

196
1 Houston? Do you have a big family here?
2 A. Pretty much.
3 Q. So you're not sure if Chucky's a first cousin,
4 but he's a cousin to you?
5 A. Yes.
6 Q. But you're not sure if Shawn is, Shawn England?
7 A. I'm not sure.
8 Q. Timmy Thomas is, though?
9 A. I'm not even sure about him.
10 Q. So describe, what is Charles like when he gets
11 into the vehicle that morning by the Burger King?
12 A. His normal self. He got in told us he got a
13 Lexus.
14 Q. And did you ever see what he did with these
15 keys you say you saw?
16 A. Yeah, he showed us the Lexus key. That's it.
17 Q. Did you bring up a conversation or say anything
18 about finding a place to get rid of the Lexus?
19 A. Nope.
20 Q. Did you ever talk about taking it to a chop
21 shop or anything?
22 A. He was asking about a chop shop, but I ain't --
23 no.
24 Q. You didn't say that to him?
25 A. No, I didn't.

198
1 you there may have been a connection?
2 A. Yes.
3 Q. And Chucky had not said anything to you up to
4 that point, acknowledging that he had done anything
5 other than he had gotten a Lexus?
6 A. That's it.
7 Q. And he showed you some keys to a Lexus?
8 A. That's it.
9 Q. How long was Anthony gone with Chucky before
10 they came back and got you again?
11 A. Roughly, about an hour.
12 Q. Now when you're having this conversation with
13 the defendant later on -- says, Later on I spoke with
14 Charles -- are you face-to-face?
15 A. Yes.
16 Q. Where are you?
17 A. On the porch.
18 Q. Whose porch?
19 A. Stephanie's porch, my sister.
20 Q. Now you gave a whole lot of information in
21 response to the prosecutor's questions about
22 conversations you had with Charles and go into detail
23 about the jack on jack and these guys had a Bible.
24 There was a shoot-out and goes into detail about where
25 the people were shot and everything. And then, also

199 1 talking about that the girl had been shot, that they had
 2 been outside. And he asked you about talking with
 3 Detective Novak, and she supposedly had performed oral
 4 sex on him. When do you get that information? What
 5 time is that?

6 A. I don't really recall. I got, like I said,
 7 bits and pieces in person.

8 Q. So a lot of this information, bits and pieces,
 9 is it coming from a different source other than Charles?

10 A. No.

11 Q. Everything that you said here in court today
 12 you're attributing to him?

13 A. Yeah, everything I said that was told to me was
 14 told to me by him.

15 Q. Is it one conversation or several?

16 A. It was several.

17 Q. Over what period of time?

18 A. I don't really recall, a couple of days.

19 Q. So it's not just Monday; it's Monday and
 20 Tuesday?

21 A. To the best of my knowledge, yeah.

22 Q. Okay. Are you calling him?

23 A. No.

24 Q. And when he calls you, are you asking him
 25 questions about the situation? Is he just volunteering,

201 1 happen to you?
 2 A. Yeah, it's a fair statement.
 3 Q. Was it also obvious to you that the
 4 detective -- and we're talking about Novak, right?
 5 A. Correct.
 6 Q. Was it obvious to you that he was interested in
 7 you giving any information you could about Charles
 8 Mamou?

9 A. That was obvious, plus the information of my
 10 whereabouts at the time.

11 Q. Okay. So he was trying to confirm where you
 12 were at the time of the shootings, and he was interested
 13 in you giving him information about your cousin?

14 A. Yes.

15 Q. Thank you.

16 MR. HILL: Judge, I have no further
 17 questions. Pass the witness.

18 REDIRECT EXAMINATION

19 BY MR. McCLELLAN:

20 Q. Mr. Dodson, during one of the conversations you
 21 had with the defendant when he was calling back checking
 22 what the news was saying, did he inquire about the
 23 condition of the people that he had shot?

24 A. Yes.

25 Q. Did he tell you whether or not he thought he

200 I just need to tell you, cuz, I shot this girl?
 1 A. I'm asking.
 2 Q. So you're questioning him. Had you already
 3 been seen by the police at that time?
 4 A. No.
 5 Q. When is the first time the police come to talk
 6 to you?
 7 A. When they picked me up, after they picked him
 8 up.
 9 Q. When was that?

10 A. I don't remember exact date.

11 Q. It would have been after the Monday or Tuesday?

12 A. Yeah, it was after that.

13 Q. And at that point in time, what exactly are you
 14 thinking at the time that you were picked up by the
 15 police? Is it clear to you that they are looking at you
 16 as a suspect for capital murder?

17 A. Yeah, it was clear to me.

18 Q. Was that made real clear to you by the
 19 detectives you were with?

20 A. Not real clear, but --

21 Q. Clear enough?

22 A. In so many words, yeah.

23 Q. So at that point, is it a fair statement to say
 24 you're very concerned about your future and what might

202 had killed everybody there?
 1 A. I don't recall.
 2 Q. Did you tell him what the condition was of the
 3 people that -- the fact that some people lived?
 4 A. Yes.
 5 Q. What was his reaction?
 6 A. He just asked me who lived.
 7 Q. Asked you which ones lived?
 8 A. Yeah.
 9 Q. I believe in response to Mr. Hill's question,
 10 you said the police didn't come by to pick you up to
 11 come down to give a statement until after the defendant
 12 had been arrested?
 13 A. Correct.
 14 Q. Now you called the police, didn't you, or your
 15 sister?
 16 A. I was told by my uncle.
 17 Q. Your uncle being who?
 18 A. Charles Mamou, Sr.
 19 Q. All right.
 20 A. That the homicide division had just left his
 21 place with a mug shot of me and Chucky, Charles. I
 22 asked him for Novak's number. When I called, he wasn't
 23 in.
 24 Q. But did your -- did they call back?

203
1 A. Yeah, they called back later on.
2 Q. You left a message with a number you could be
3 reached at, right?
4 A. No.
5 Q. How did they know to call back to you?
6 A. Through Anthony.
7 Q. Who?
8 A. Anthony.
9 Q. Anthony Trail. Do you know whether or not --
10 Stephanie Mamou is your sister, right?
11 A. Correct.
12 Q. Do you know whether or not Stephanie Mamou
13 called Sergeant Novak?
14 A. Yes, she did.
15 Q. And after that -- in fact, you asked people to
16 come over and pick you up and bring you down to make a
17 statement, right?
18 A. Correct.
19 Q. Did Stephanie go down with you?
20 A. No.
21 Q. Just you?
22 A. And Anthony.
23 Q. Because you didn't show -- did you show the
24 detectives where Baldy -- I mean, not Baldy, but where
25 Bug lived?

205
1 A. That's it.
2 Q. Thank you.
3 MR. HILL: I have no further questions.
4 MR. MCCLELLAN: Nothing further, Your
5 Honor.
6 THE COURT: Call your next, please.
7 MR. MCCLELLAN: State would call Anthony
8 Trail.
9 (Off-the-record discussion.)
10 THE COURT: Ladies and gentlemen, we're
11 going to adjourn for the evening. I didn't sit through
12 the voir dire examination; but I understand what was
13 told to you, you were told this case would not last more
14 than two weeks. It's my understanding that that is
15 true. We are going to work tomorrow evening until both
16 sides have rested and closed, till all the evidence is
17 in tomorrow, tomorrow evening, which means we may be
18 stopping at 3:30 or 4:00 o'clock, or it may be 8:00 p.m.
19 For whatever scheduling conflicts you may have, make
20 whatever arrangements you need to today or tonight or
21 tomorrow morning; because we're going to be here
22 tomorrow until we complete all the evidence in the case.
23 I'm not going to tell you about any kind
24 of scheduling conflicts, but we are not going to come in
25 on Monday. You are not going to come in on Monday. We

204
1 A. Yes.
2 Q. All right. And did you make a call over to
3 Anthony's house?
4 A. No.
5 Q. Or did Anthony call you?
6 A. No.
7 Q. Did Anthony come down to make a statement about
8 the same time you came down?
9 A. Yes.
10 Q. Did y'all ride down together or different cars?
11 A. Together.
12 MR. MCCLELLAN: I'll pass the witness,
13 Your Honor.
14 RECROSS-EXAMINATION
15 BY MR. HILL:
16 Q. Do you have any nicknames or other names you go
17 by?
18 A. Yes.
19 Q. What are they?
20 A. Tator.
21 Q. What does that stand for?
22 A. It's just a nickname.
23 Q. T-A-T-E-R?
24 A. O-R.
25 Q. Any other names you've ever gone by?

206
1 will be coming in on Monday. We're going to argue this
2 case on Tuesday morning. So, tomorrow you're going to
3 be here until everybody has closed. Both sides have the
4 opportunity to put on anything they want to at that
5 point. They'll rest. They'll close. That's the end of
6 the evidence in the case. We're going to be working on
7 the Court's charge.
8 On Tuesday morning we'll come back in and
9 the case will be argued to you. Nothing new will be
10 presented to you, just the arguments, reading of the
11 charge, and the arguments by both sides before you begin
12 deliberation. And tomorrow I will give you some more
13 specific instructions as to exactly how that's going to
14 occur, but you don't need to know anything more about
15 that now.
16 We're going to ask you to return tomorrow
17 morning at 10:00 o'clock. Again, wear your badges. Be
18 seated in the jury room again. Do not discuss this case
19 among yourselves or with anybody else, including
20 spouses. You're not to discuss it among yourselves
21 until after both sides have argued the case to you and
22 twelve jurors are back deliberating the case sometime
23 Tuesday. If anybody attempts to bring -- or talk to you
24 about the case, bring it to our attention immediately.
25 Do not make any kind of investigations, including scene

207 1 investigations.

2 I still haven't noticed members of the
3 media covering this. And hopefully, we will get through
4 all the testimony before they discover we've been at
5 this, in case they want to cover it. Anybody have any
6 special problems you need to bring to my attention?

7 JUROR: I need a work slip for tomorrow.

8 THE COURT: Okay. You're aware that we
9 will give you one work slip that notifies your employer
10 of all the days and times you've been down here once the
11 trial is over, but you're working some kind of --

12 JUROR: Well, right now -- I'm not working
13 right now because of this; but I go on to work the
14 weekend, though.

15 THE COURT: What do you need your work
16 slip to say?

17 JUROR: So they can pay me these days I'm
18 here.

19 THE COURT: You just want it to say you've
20 been here all this week? Anybody else have any special
21 problem? Any requested admonishments or instructions
22 from the State or defense?

23 MR. HILL: No, sir.

24 MR. MCCLELLAN: No, sir, Your Honor.

25 (Court adjourned.)

208

1 THE STATE OF TEXAS)

2 COUNTY OF HARRIS)

3 I, Pamela Kay Knobloch, Official/Deputy
4 Official Court Reporter in and for the 179th District
Court of Harris County, State of Texas, do hereby certify
5 that the above and foregoing contains a true and correct
transcription of all portions of evidence and other
proceedings requested in writing by counsel for the
6 parties to be included in this volume of the Reporter's
Record, in the above-styled and numbered cause, all of
7 which occurred in open court or in chambers and were
reported by me.

8 I further certify that this Reporter's Record
9 of the proceedings truly and correctly reflects the
exhibits, if any, admitted by the respective parties.

10 I further certify that the total cost for the
11 preparation of this Reporter's Record is \$ _____ and
was paid by Harris County.

12 WITNESS MY OFFICIAL HAND this the _____ day of
13 _____, 2000.

14

15

16 Pamela Kay Knobloch, Texas CSR No. 1650
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1 REPORTER'S RECORD

2 VOLUME 20 OF 25 VOLUMES

3 TRIAL COURT CAUSE NO. 800112

4

5 CHARLES MAMOU, JR.) IN THE DISTRICT COURT

6 Appellant)

7)

8 VS.) HARRIS COUNTY, TEXAS

9)

10 THE STATE OF TEXAS)

11 Appellee) 179TH JUDICIAL DISTRICT

12

13

14 *****

15 TRIAL-GUILTY/INNOCENCE

16 *****

17

18 On the 8th day of October, 1999, the following
19 proceedings came on to be heard in the above-entitled and
20 numbered cause before the Honorable J. Michael Wilkinson,
21 Judge Presiding, held in Houston, Harris County, Texas:

22 Proceedings reported by computer aided
23 transcription/stenograph machine.

24

25

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1 Q. In fact, you were talking about the fact that
2 it was about a Lexus, were you not, that you had seen on
3 TV?

4 A. Yes.

5 Q. And did the defendant say whether or not those
6 keys were for a Lexus?

7 A. Later, Terrence Dodson --

8 Q. I didn't ask you what Terrence Dodson --

9 MR. HILL: Object to being nonresponsive
10 and to the leading.

11 THE COURT: Sustained.

12 Q. (BY MR. MCCLELLAN) Did you give a statement to
13 the police?

14 A. Yes.

15 Q. Okay. And is what you told them true?

16 MR. HILL: Judge, I'm going to object to
17 him trying to bring in a statement previously made.

18 THE COURT: It's overruled.

19 Q. (BY MR. MCCLELLAN) Is what you told them true?

20 A. Yes.

21 MR. MCCLELLAN: May I approach the
22 witness, Your Honor?

23 THE COURT: You may.

24 Q. (BY MR. MCCLELLAN) Let me show you these four
25 pages. Is this your statement?

1 Q. Did he tell you what color the Lexus was?

2 A. Yes.

3 Q. What color did he say it was?

4 A. It was blue.

5 Q. Did he say anything about any accessories the
6 Lexus had on it?

7 A. He said they had some wheels on it, some mag
8 wheels.

9 Q. What color? What type?

10 A. He didn't say. It was just some mag wheels.
11 They were expensive.

12 Q. Did you tell him what kind of wheels you saw --
13 that you heard on the news the Lexus had?

14 A. I heard they had some, you know, wheels --
15 that's what kind of caught my eyes -- they had some
16 chrome wheels that were pretty expensive.

17 Q. You say chrome wheels?

18 A. Yes.

19 Q. Now what was Chucky's attitude when he was
20 talking about the Lexus?

21 A. What was his attitude?

22 Q. What was his attitude? How was he acting?

23 A. I'm not sure I understand what you mean, as far
24 as how he was acting.

25 Q. Was he joking about it? Was he normal? Was

8 1 A. Well, I haven't read it; but yes, it is.

2 Q. Well, go ahead and read it.

3 Is that your statement?

4 A. Yes.

5 Q. Now when Chucky got in the car, did he say
6 anything about the keys?

7 A. He just said there were some keys to a car,
8 yes; and I remember, you know, him saying it was a
9 Lexus.

10 Q. He said they were keys to a Lexus?

11 A. Yes.

12 Q. Did you make any inquiry about that?

13 A. No. I just told him I seen the news earlier
14 and that it was about some Lexus. And I was telling
15 him, Hey, get away from there or, you know, get rid of
16 the keys or whatnot, if there was some keys to the
17 Lexus. I was telling him to, you know, because I seen
18 it on the news.

19 Q. You asked him what color the Lexus was that he
20 said he had keys to? Look on the second page, second
21 paragraph. Does that refresh your memory?

22 A. Blue.

23 Q. The question was, did you ask him what color
24 the Lexus was?

25 A. Yes.

10 1 he excited? How would you describe his attitude?

2 A. I don't know that it was abnormal. I wouldn't
3 say it was abnormal.

4 Q. Okay. Now did you take Terrence Dodson
5 someplace?

6 A. Yes. Well, he rode with us. When I picked
7 Charles up, he rode with us, you know; because I didn't
8 know how to get to where he was, so I picked up Tator.

9 Q. We're already there. He's already gotten in
10 your car.

11 A. Okay. We took Terrence back home.

12 Q. And after you took Terrence back home, did --
13 where did you go?

14 A. We went back toward my house.

15 Q. That being on Ashford Point?

16 A. Yes.

17 Q. And this is you and the defendant?

18 A. Yes.

19 Q. And did he ask you to go to a certain location?

20 A. Yes.

21 Q. And what location was that? Was that close to
22 your house or far away?

23 A. Yes, it was right across from my house.

24 Q. And describe the location where he asked you to
25 go.

11 A. You turn off of Dairy Ashford. You go all the
 1 way down; and there is a dome, like a church. I don't
 2 know if it's a church, but it's like a big dome; and
 3 there is a little dead-end street.
 4 Q. And did you take him to that dead-end street?
 5 A. Yeah.
 6 Q. Let me show you what's been introduced into
 7 evidence as State's Exhibit No. 61 and ask you if this
 8 diagram shows the location where your apartment is?
 9 A. Yeah.
 10 Q. All right. Does it show on there the street
 11 we're talking about?
 12 A. Yes.
 13 Q. Okay. I'm going to ask you to take this arrow
 14 and point it, if you will, at the street you took the
 15 defendant to. And is this street a through street, or
 16 does it end somewhere?
 17 A. It's a dead-end.
 18 Q. What does it dead-end into?
 19 A. Ends to a stop sign.
 20 Q. Is there a bayou there?
 21 A. I'm not sure if there is one or not.
 22 Q. What did the defendant do when you got to that
 23 location?
 24 A. He jumped out of the car.
 25

13 1 glasses there?
 1 2 A. He said that he was with a female.
 2 3 Q. And they were doing what?
 3 4 A. He just said that the female was giving him
 4 oral sex.
 5 6 Q. Did he say why he left that location?
 6 7 A. No.
 7 8 Q. Is there a police substation close by where you
 8 live?
 9 10 A. Sure.
 10 11 Q. He didn't say anything about seeing police cars
 11 go by?
 12 13 A. No, he just -- I can't remember if he made a
 13 comment about that or not.
 14 15 Q. After that, where did y'all go?
 15 16 A. We went to my house.
 16 17 Q. Was the defendant making any inquiries about
 17 any news item that was going on that day?
 18 19 A. Well, the news was coming on; and it was just
 19 flashing about the accident, about the Carmouche girl in
 20 this case.
 21 22 Q. Did you look up on the Internet to see if there
 22 is any information on the trial?
 23 24 A. Yeah.
 24 25 Q. I mean, on the case?

12 1 Q. All right. Did he pick anything up?
 1 2 A. I think he picked something up. I'm not sure
 3 if he picked something up. Or I know he jumped out and
 4 picked something up, but I'm not sure what it was he
 5 picked up.
 6 Q. Did he get back in the car?
 7 A. Yes.
 8 Q. Do you remember -- did you have some glasses or
 9 frames?
 10 A. I don't remember.
 11 Q. On the second page, can you look at the third
 12 full paragraph, read that to yourself?
 13 A. Okay.
 14 Q. Did he pick something up?
 15 A. I asked him what he picked up. He told me that
 16 it was some glasses that he dropped.
 17 Q. Okay. Did you ask him why he had dropped some
 18 glasses over on that street by your house?
 19 A. Yes.
 20 Q. At that time, as far as you know, did he know
 21 where you lived?
 22 A. Yes.
 23 Q. He did know where you lived?
 24 A. Yes.
 25 Q. And did he tell you why he had left some

14 1 A. Yes.
 1 2 Q. Did you find anything?
 2 3 A. Yes.
 3 4 Q. Did Chucky read that, what was on the Internet?
 4 5 A. Yes.
 5 6 Q. Was it that day or another day that you took
 6 him to another location?
 7 7 A. It was that day.
 8 8 Q. That day. Okay, where did you take him?
 9 9 A. Back on Fondren.
 10 10 Q. Okay. And after you took him back on Fondren,
 11 did you take him somewhere else that day?
 12 11 A. Yes. I took him to the bus station.
 13 12 Q. Did you leave him there at the bus station?
 14 13 A. Yes.
 15 14 Q. After you left him at the bus station, did you
 16 hear from him again by telephone?
 17 15 A. Yes.
 18 16 Q. That day or the next day --
 19 17 A. It was --
 20 18 Q. -- or both?
 21 19 A. Yeah, kind of sort of both.
 22 20 Q. You heard from him later that evening, as well
 23 as the next day. And while -- what was he asking about,
 24 if anything, when he called?
 25

15
 1 A. He was just asking me what I was doing. Then,
 2 you know, he asked me if I had heard anything about what
 3 had -- you know, the news or anything.

4 Q. He was asking questions about what had been on
 5 the news about a missing person, Mary Carmouche?

6 A. Yes.

7 Q. Did you relate to him what was being said on
 8 the news?

9 A. I don't remember.

10 MR. McCLELLAN: I pass the witness, Your
 11 Honor.

12 CROSS-EXAMINATION

13 BY MR. HILL.

14 Q. Mr. Trail, my name is Wayne Hill. I represent
 15 your cousin, Chucky. You and I have never spoken?

16 A. That's correct.

17 Q. You've never spoken to anybody associated with
 18 the defense?

19 A. That's correct.

20 Q. How many times have you met with the
 21 prosecution or the police officers in this case?

22 A. Twice.

23 Q. I notice -- on those occasions, did you
 24 understand the express reason why you were meeting with
 25 them is because they were going to call you as a witness

17
 1 different. And you work -- they give you three years to
 2 work on your certification.

3 Q. Okay. Who is Timmy Thomas?

4 A. He's a friend.

5 Q. Okay. Is he related to you at all?

6 A. No.

7 Q. Where does he live?

8 A. Sunset.

9 Q. All right. Do you know where in Sunset?

10 A. Yes.

11 Q. Whereabouts?

12 A. Right across from my mom.

13 Q. Is that right down the street from where
 14 Charles' mother lives?

15 A. Sure.

16 Q. The blue house? Is it a blue house?

17 A. I'm not sure what color it is right now.

18 Q. Do you go to and from Sunset on a regular basis
 19 to see your mom?

20 A. Yes.

21 Q. Any other family there?

22 A. Yes.

23 Q. What about Shawn England? Do you know Shawn?

24 A. Shawn England. I know a Shawn. I'm not sure
 25 if his last name is England or not.

16
 1 in this case?

2 A. Yes.

3 Q. Okay. Yet, efforts at talking to you from our
 4 perspective have failed, correct?

5 A. Did you try to talk to me?

6 Q. Yeah.

7 A. You did?

8 Q. Yeah.

9 A. I didn't know. My telephone number is in the
 10 phone book.

11 Q. Where is Hilliard Elementary?

12 A. That's North Forest.

13 Q. And you've been there as a school teacher for
 14 three years?

15 A. I've been there for a year. This beginning of
 16 the year was my first year there.

17 Q. So when did you get certified as an elementary
 18 schoolteacher?

19 A. When did I? I'm currently working on that.

20 Q. So, you're not actually certified as a

21 schoolteacher. Are you, like, in training?

22 A. I'm on what they call a deficiency plan.

23 Q. What is that?

24 A. That's a plan to where you come in -- being
 25 that I'm from Louisiana, the certifications are

18
 1 Q. Describe him, Shawn.

2 A. He's a dark-skinned guy.

3 Q. About six foot?

4 A. Somewhere around there.

5 Q. About 200 pounds, 190, 200 pounds?

6 A. Somewhere around there.

7 Q. Do you know Howard Scott?

8 A. No.

9 Q. The location that you took Charles Mamou back
 10 to when Mr. McClellan was asking you if you took him
 11 back to Fondren, where exactly did you take him to?

12 A. Burger King.

13 Q. Okay. And that's where you had first met?

14 A. Yes.

15 Q. And the purpose for him calling you is to say
 16 he wanted to get something to eat?

17 A. Yes.

18 Q. So you picked him up at Burger King?

19 A. Yes.

20 Q. You y'all didn't go inside the Burger King to
 21 eat, though?

22 A. No.

23 Q. But before going to pick him up at the Burger
 24 King, you had to go and pick up Tator?

25 A. Right.

19
1 Q. How close are you and Tator?
2 A. Well --
3 Q. Are y'all cousins?
4 A. Yeah, we're cousins, also.
5 Q. How close are you?
6 A. I wouldn't say we're real close, but we're as
7 close as cousins can be.
8 Q. See one another on a regular basis?
9 A. I wouldn't say regular basis. My schedule is
10 kind of different.
11 Q. Okay. Different than his schedule?
12 A. Right.
13 Q. When did you first come to Houston to live?
14 A. 1997, I think.
15 Q. So, roughly two years ago?
16 A. Yeah.
17 Q. If I understand you correctly, you say that
18 about 8:30 in the morning on December 7th, which is a
19 Monday, that's when you hear from Chucky. And he asked
20 you to come pick him up?
21 A. Right.
22 Q. Let's go back a few days and let me ask you,
23 what type of association are you having with Chucky
24 during the couple of three days before December 7th?
25 Did you see him at all?

21
1 Q. Okay. Is there any discussion about doing any
2 kind of drug deal in the next several days?
3 A. No, no.
4 Q. Does Chucky get any telephone calls while
5 you're there sitting and eating gumbo?
6 A. I don't remember.
7 Q. Did Chucky have a cell phone?
8 A. No.
9 Q. Do you know if Tator had one? Was Stephanie
10 home at the time y'all were over there?
11 A. Yes.
12 Q. Did anyone else come over?
13 A. I don't think so. I don't remember. I don't
14 think so. All I remember is just us being there.
15 Q. How long do you stay there?
16 A. We stayed there roughly, I would say, two or
17 three hours.
18 Q. Okay. Now if that's on the Thursday before
19 Monday, which is December 7th, what about anytime before
20 that, that week?
21 A. No.
22 Q. So the first time -- let's use December 1st as
23 our starting point. Do you see him anytime -- Charles
24 Mamou -- do you see him anytime, starting around
25 December 1st through December 7th, other than on --

20
1 A. Yes.
2 Q. Where are you seeing him?
3 A. I seen him Thursday at Terrence Dodson's house.
4 Q. What were y'all doing over at Terrence's on
5 Thursday?
6 A. We were -- it's -- Terrence's sister had cooked
7 a gumbo, and we were eating gumbo.
8 Q. Okay. Did you go and pick Chucky up to take
9 him over to Terrence's?
10 A. No.
11 Q. Do you know how Chucky got over to Terrence's?
12 A. No. Well, I think he had a car at the time,
13 yes.
14 Q. Chucky had a car?
15 A. Yes.
16 Q. What kind of car was he driving?
17 A. I'm not sure.
18 Q. Do you know if it was a rental car?
19 A. I'm not sure.
20 Q. And that would have been on Thursday, four days
21 before the Monday we talked about?
22 A. Right.
23 Q. Y'all sit around and talk about things when
24 you're over at Tator's eating gumbo?
25 A. Yeah.

22
1 A. December 1st is on what date?
2 Q. I'll get out my calendar, and I'll tell you.
3 December 1st was a Tuesday.
4 A. No.
5 Q. Now were you -- okay. So in between December
6 1st and that Thursday, which was December 3rd, you don't
7 see Charles. You see him on the 3rd?
8 A. On Thursday.
9 Q. Now, are you working at Hilliard Elementary
10 school at that time?
11 A. No.
12 Q. Where were you working at that time?
13 A. Let me see. Where was I working? I think I
14 was working for Schlumberger and Sepco, an oil drilling
15 company.
16 Q. So, you didn't actually start as a
17 schoolteacher a year ago. When did you actually start
18 your training at the North Forest Independence School
19 District?
20 A. This year.
21 Q. So would that have been September, late August?
22 A. Yeah.
23 Q. You go and you pick up Charles after you pick
24 up Tator. Tator talk to you on the way to picking up
25 Charles?

23
1 A. No. I mean, we talked; but I don't think it
2 was anything pertaining to this.
3 Q. Was there any discussion between the two of you
4 of any drug deal or anything?
5 A. No.
6 Q. That was in the works?
7 A. Of course not.
8 Q. Or that had happened?
9 A. Nope.
10 Q. Terrence didn't say anything to you at that
11 time, right? And you said you picked Chucky up over on
12 Fondren at a Burger King. And how far is it that you go
13 to where you ultimately drive?
14 A. I say about twenty-five minutes or so.
15 Q. And that's to take Terrence back home?
16 A. Terrence back home.
17 Q. And you're going to go eat at Terrence's house?
18 A. No, eat at my house.
19 Q. But you've got to drop Terrence off first?
20 A. Right.
21 Q. About what time is that?
22 A. Man, I can't sit here and give you a specific
23 time, because I don't remember. All I remember is it
24 was early in the morning time.
25 Q. So, what was your work time on December 7th?

26
1 Q. All right. So were you and Tator in the back
2 of the patrol unit or an undercover car?
3 A. Yes.
4 Q. Which?
5 A. I don't know. Mr. McClellan's car, Lyn, yeah.
6 Well, the car he was in -- I can't say it's his car, the
7 car he was in. They came over to my apartment and --
8 Q. Picked you up and took you down to police
9 headquarters?
10 A. Right, that's correct.
11 Q. And that would have been back on December 9th?
12 A. Yes.
13 Q. Now at the time that you were brought into the
14 police station, were you concerned the police think
15 you're somehow involved in this?
16 A. Definitely, yes.
17 Q. Is that the impression given to you?
18 A. Well, I'm not too familiar with the criminal
19 justice system. And you come over to my house, and
20 they're knocking on the door. I'm panicking. And I was
21 kind of scared at the time.
22 Q. And did Tator seem like he was concerned while
23 you were sitting in the car together driving over to the
24 police station?
25 A. I don't know. I don't know what he was

24
1 A. I was off.
2 Q. Just happened to be off on that Monday?
3 A. Yeah.
4 Q. And you happen to be off that Thursday before?
5 A. Yeah.
6 Q. The -- when you are making a statement to the
7 police, do you recall what day that's on?
8 A. I can read it, but it says here Wednesday.
9 Well, no, it's been before that.
10 Q. Was it December 9th, at approximately 6:39
11 p.m.? Look at the top of your statement. See if that
12 refreshes --
13 A. Yeah, December 9th, Wednesday, I guess, yeah.
14 Q. All right. And do you recall how long you
15 were with the police that day making your statement?
16 A. I'd say thirty or forty minutes or so.
17 Q. And do you know whether or not -- did Tator go
18 with you down to the police headquarters?
19 A. Yes.
20 Q. Did you drive together?
21 A. No. They picked us up.
22 Q. Okay. They, being the police?
23 A. The police.
24 Q. Were you in the same vehicle together?
25 A. Yes.

26
1 feeling. He didn't tell me anything.
2 Q. Did he look calm? Was he sitting there kind
3 of slouched down in the back of the car? Did he seem
4 fidgety?
5 A. I don't know.
6 Q. Without telling us what was said to Tator, were
7 the police talking to him while you were driving to the
8 police station?
9 A. I can't recall.
10 Q. Were they saying anything to you?
11 A. Nope. They wasn't asking any questions till we
12 got to where we were going.
13 Q. Once you got there, was it very clear to you
14 that the purpose of them talking to you was to get
15 information about your cousin, Chucky?
16 A. Yes.
17 Q. Were the questions that were asked of you only
18 focused on Chucky?
19 A. No.
20 Q. In other words, since you were responding, were
21 those mostly asking questions about Charles Mamou?
22 A. He was basically asking questions about, when
23 did I see him? And, you know, asking what was going on,
24 you know, what had happened, the time that we came in
25 contact with each other.

27 Q. Right. So the content of the conversation you
2 had with the police all centered on Chucky?

3 A. I would say somehow, yes.

4 Q. They weren't mentioning other people to you and
5 asking you about whether you were with any other people
6 on a given day, were they? I know you can't give me a
7 specific time, Mr. Trail. But if you're putting 8:30 in
8 the morning as the time you're going by and picking
9 Chucky up at the Burger King, approximately what time do
10 you think you take him back to that location on Fondren?

11 A. Somewhere around, I'd say 1:00, 12:00 or 1:00
12 o'clock.

13 Q. 12:00 or 1:00 o'clock?

14 A. Yeah.

15 Q. What time do you ultimately take him to the bus
16 station?

17 A. Shortly after that.

18 Q. Do you stay with him during that period of
19 time, in between?

20 A. Yeah, we ate together.

21 Q. You ate at the Burger King?

22 A. No, we ate at Taco Bell.

23 Q. Is that the Taco Bell up on Bissonnet and
24 Fondren?

25 A. No, the Taco Bell across the street from the

29 1 know, in so many words, get out of it so I wouldn't kind
2 of --

3 Q. So you wouldn't kind of what?

4 A. In other words, I didn't feel like taking him
5 up there; but he was telling me he needed a ride. I
6 knew if he was going to ask me twice, I possibly was
7 going to take him; because he needed a ride.

8 Q. So you go to the Burger King; and you pull in
9 the parking lot and you have this conversation about,
10 Now I need to go to the bus station?

11 A. Yeah.

12 Q. So does he go anywhere in between Burger King
13 and the bus station?

14 A. No.

15 Q. You don't recall him going by any apartments or
16 anything on Fondren?

17 A. No.

18 Q. Do you know anybody that lives in any of those
19 apartments on Fondren?

20 A. No.

21 Q. Never been to one of those apartments on
22 Fondren?

23 A. No.

24 Q. And when you take him downtown, you said you
25 eat at the Taco Bell. And the last you see of him is --

28 1 bus station.

2 Q. Okay. That's the bus station downtown?

3 A. Correct.

4 Q. So you take him from the Burger King, and then
5 do you stay with him? I'm trying to figure out where
6 you're driving to, yourself, in between the Burger King
7 and the bus station downtown.

8 A. You trying to think of what route we took?

9 Q. No. I'm trying to figure out what you're
10 doing. You take him -- instead of going to the bus
11 station, you take him to the Burger King on Fondren,
12 right? That's where you take him back to?

13 A. Yes.

14 Q. All right. Do you let him out of your vehicle?

15 A. No, no.

16 Q. All right. So what do you do?

17 A. We just -- he just -- you know, he was telling
18 me at the time he needed a ride to the bus station. So
19 I just say, All right, I'll take you.

20 Q. Now at the time that you are driving towards
21 Fondren, which is in Southwest Houston --

22 A. Yeah.

23 Q. -- he's not saying to you he needs to go to the
24 bus station?

25 A. He was saying it; but I was trying to, you

30 1 do you wait for him to board his bus?

2 A. Yes.

3 Q. And that would be the bus going back to Sunset
4 or Lafayette, Louisiana?

5 A. I guess so.

6 Q. Okay. Well, you waited there for him to board
7 his bus, right?

8 A. Yes.

9 Q. You walk up with him when he bought his ticket?

10 A. No, no, I didn't walk up with him; because I
11 had left shortly after that.

12 Q. Did you give him money to buy the ticket?

13 A. No.

14 Q. Buy lunch?

15 A. No, he bought lunch.

16 Q. He bought your lunch?

17 A. Yeah.

18 Q. So, do you recall -- think about this. You've
19 identified Thursday as the day that you were with him,

20 which is the 3rd of December. And then you said you
21 were with him on the 7th, on Monday. Do you recall --

22 if you have to look at your statement, do so -- but do
23 you recall being with him on Saturday, over at
24 Terrence's apartment, when you all were drinking beers?

25 A. Yes, yes, yes.

31
1 Q. Okay. So you had forgotten that for a while?
2 A. Yes, we did. I remember. Now that you bring
3 it up, I remember walking to the store.
4 Q. How long were y'all there?
5 A. I think an hour or so. It wasn't long at all.
6 Q. Thank you.
7 MR. HILL: I have no further questions.
8 Pass the witness.
9 REDIRECT EXAMINATION
10 BY MR. MCCLELLAN:
11 Q. Maybe I misunderstood, but did you say I picked
12 you up and took you to the police station?
13 A. I meant you and the deputies.
14 Q. No.
15 A. Was it?
16 Q. What is the first time you ever saw me?
17 A. Let me make myself clear. It wasn't you. It
18 was the other detective.
19 Q. I'm not a detective?
20 A. Well --
21 Q. Sergeant Novak, who's outside?
22 A. Novak.
23 Q. Are you saying I look like Novak?
24 MR. MCCLELLAN: I have no further
25 questions.

33
1 money to be paid for testifying?
2 A. No.
3 Q. Okay. That's all I have. Thank you.
4 REDIRECT EXAMINATION
5 BY MR. MCCLELLAN:
6 Q. You never applied for any Crime Stoppers'
7 money?
8 A. No.
9 Q. Don't know of anybody that did, do you?
10 A. No.
11 MR. MCCLELLAN: No further questions.
12 RECROSS-EXAMINATION
13 BY MR. HILL:
14 Q. Were there ever any discussions of receiving
15 funds other than Crime Stoppers' money?
16 MR. MCCLELLAN: I object to being hearsay.
17 I don't know who the discussions are with.
18 THE COURT: Rephrase it.
19 Q. (BY MR. HILL) Are you having a discussion with
20 Terrence Dodson about either of you receiving money --
21 A. No.
22 Q. -- for offering testimony?
23 A. No.
24 Q. So now you're saying you didn't have that
25 statement?

32
1 MR. HILL: May I have just one moment?
2 THE COURT: Yes.
3 RECROSS-EXAMINATION
4 BY MR. HILL:
5 Q. Was there ever a discussion between you and
6 Terrence, or you and anybody, for that matter,
7 regarding any kind of Crime Stoppers money or payments
8 of money being paid for testimony?
9 A. Terrence discussed that.
10 Q. When was that?
11 A. I don't know.
12 MR. MCCLELLAN: I object to hearsay, Your
13 Honor.
14 THE COURT: When was the discussion, is
15 the question?
16 Q. (BY MR. HILL) Yes. When was that discussion?
17 A. I don't know. It was somewhere at the
18 beginning of when we gave our statement.
19 Q. Just before giving the statement?
20 A. Yes.
21 Q. So was that when you were driving down in the
22 car together, or do you recall?
23 A. No, no. It wasn't when we were driving the car
24 together.
25 Q. Did you ever specifically mention an amount of

34
1 A. We didn't have a discussion. It was -- he was
2 just saying that --
3 MR. MCCLELLAN: I object to what someone
4 else is saying.
5 THE COURT: Sustained.
6 MR. HILL: I have no further questions.
7 MR. MCCLELLAN: I have nothing further.
8 THE COURT: Stand down.
9 Call your next.
10 MS. CONNORS: Trisha Gibson.
11 PAT GIBSON,
12 having been first duly sworn, testified as follows:
13 DIRECT EXAMINATION
14 BY MS. CONNORS:
15 Q. Miss Gibson, could you please introduce
16 yourself to the jury?
17 A. My name is Pat Gibson.
18 Q. And how old are you, Miss Gibson?
19 A. I'm sorry?
20 Q. How old are you?
21 A. I'm forty-six years old.
22 Q. Are you married?
23 A. Yes, ma'am, I am.
24 Q. And how long have you been married?
25 A. I've been married twenty-seven years.

35
 1 Q. What is your husband's name?
 2 A. My husband's name is Walter Gibson.
 3 Q. Miss Gibson, do you work?
 4 A. Yes, I do.
 5 Q. Where do you work?
 6 A. I'm a manager at the Houston Chronicle.
 7 Q. How long have you worked for the Houston
 8 Chronicle?
 9 A. I've been there twenty-two years.
 10 Q. Does your husband work?
 11 A. No, ma'am, not currently right now.
 12 Q. Is he on some type of disability?
 13 A. Yes, yes, sir, yes, corroded disc in his back.
 14 Q. Prior to December 7th, 1998, how many children
 15 did you have?
 16 A. I had three sons.
 17 Q. Was Terrence Gibson your son?
 18 A. Yes, he was.
 19 Q. What number was he in your family?
 20 A. He was my middle son, Number 2.
 21 Q. And how old was Terrence when he was killed?
 22 A. He was twenty-two.
 23 Q. Let me show you what's been marked as State's
 24 Exhibit 76. Is this a picture of your son?
 25 A. Yes, it is.

37
 1 trying to make the pain any worse for you. But I have
 2 to ask you some things about your son, okay?
 3 A. Yes.
 4 Q. You say at the time of his death, Terrence was
 5 twenty-two years old?
 6 A. That is correct.
 7 Q. What was -- was he working full-time at that
 8 time?
 9 A. No, he was not.
 10 Q. Did you have an occasion to meet the people
 11 that were his friends?
 12 A. Yes, I did.
 13 Q. And was he friends with Dion Holley?
 14 A. Yes.
 15 Q. And do you know whether or not he was friends
 16 with any other individuals?
 17 A. I've not met any other, no.
 18 Q. Did you ever meet a young lady by the name of
 19 Mary Carmouche?
 20 A. No.
 21 Q. Can you tell the members of the jury whether or
 22 not you were aware of the fact that your son was
 23 involved in some type of drug dealing?
 24 A. No, I was not aware. Terrence was not at home
 25 at the time.

36
 1 Q. Where was that photograph taken?
 2 A. In mother's front yard.
 3 Q. Approximately when was that taken?
 4 A. That was probably about -- I'd say about 3:00
 5 or 4:00 o'clock in the afternoon.
 6 Q. What year would it have been?
 7 A. This would have been '98.
 8 Q. Okay. I'm going to show you a morgue photo of
 9 your son, okay, and ask you if you can identify that.
 10 Let me show you what's been marked as State's Exhibit
 11 100. Is that a photograph of your son, Terrence Gibson?
 12 A. Yes, it is.

13 MS. CONNORS: I pass the witness, Your
 14 Honor.

15 CROSS-EXAMINATION

16 BY MR. HILL:

17 Q. Miss Gibson, I'm sure this is a very difficult
 18 situation for you to have to go through. You and I have
 19 not spoken before, correct?

20 A. That's correct.

21 Q. Do you understand necessarily I'm going to have
 22 to ask you some questions that may be painful for you to
 23 answer?

24 A. Yes, sir.

25 Q. Okay. I'm not trying to offend you. I'm not

38
 1 Q. When is the last time that Terrence had lived
 2 in your home?
 3 A. As a matter of fact, Sunday before it happened.
 4 Q. Okay.
 5 A. That's always been -- after church on Sundays,
 6 we always go to my mom's house; and he was there Sunday
 7 afternoon.
 8 Q. That's his grandmother's house?
 9 A. That's correct, my mother's house. We were
 10 looking at pictures.
 11 Q. And had Terrence ever confided in you about
 12 what he did in his spare time?
 13 A. No.
 14 Q. I assume that this came as an incredible shock
 15 to you?
 16 A. Yes, sir.
 17 Q. Have you had an occasion to learn all of the
 18 circumstances that -- why your son was where he was when
 19 he was killed?
 20 A. I'm sorry?
 21 Q. Have you learned all of the circumstances of
 22 how your son came to be where he was when he met his
 23 death?
 24 A. No.
 25 Q. Have you had an occasion to visit with the

39 prosecutors and ask them how it was that your son was
 1 killed?
 2 A. I met with them two weeks ago, and that was
 3 just the first time that we met.
 4 Q. And that was to provide some photographs to
 5 them?
 6 A. Right.
 7 Q. And basically, let you know that they were
 8 going to ask you to come in and talk with the jury about
 9 your son?
 10 A. Yes.
 11 Q. All right. Were you -- are you familiar with
 12 whether your son had any tattoos?
 13 A. Yes, I knew he had a tattoo.
 14 Q. Did you know him to only have one tattoo?
 15 A. That's all I recall.
 16 Q. Could you tell the members of the jury what one
 17 you remember him having?
 18 A. It was one on his chest that I remember.
 19 Q. And what did it look like? What was it a
 20 picture of or a drawing of?
 21 A. There was a flower, I think it was, and it was
 22 a picture of a gun, I think a flower and a gun.
 23 Q. A flower and a picture of a gun?
 24 A. Uh-huh.

40 Q. Do you know how old he was when he received
 1 that?
 2 A. I don't recall.
 3 MR. HILL: May we approach the bench for a
 4 moment, Judge?
 5 THE COURT: Yes.
 6 (Off-the-record discussion.)
 7 THE COURT: Ladies and gentlemen, if you
 8 would, please go back in the jury room.
 9 (Brief recess.)
 10 (Jury is brought in and seated.)
 11 THE COURT: Proceed, please.
 12 MR. HILL: I have no further questions.
 13 MS. CONNORS: Judge, I have no further
 14 questions.
 15 THE COURT: You may stand down.
 16 Call your next.
 17 MS. CONNORS: James Carmouche, Your Honor.
 18 THE COURT: Proceed, please.
 19 JAMES MARTIN CARMOUCHE,
 20 having been first duly sworn, testified as follows:
 21 DIRECT EXAMINATION
 22 BY MS. CONNORS:
 23 Q. Sir, could you introduce yourself to the jury,
 24 please?

41 A. My name? James Martin Carmouche. I'm Mary's
 1 father.
 2 Q. And how old a man are you, sir?
 3 A. Forty-one.
 4 Q. Are you married?
 5 A. Yes.
 6 Q. And how many children do you have?
 7 A. I had -- I have six now. I had seven.
 8 Q. And how old is the oldest child?
 9 A. Nineteen.
 10 Q. And how old is the youngest?
 11 A. Seven.
 12 Q. And what type of work do you do?
 13 A. I'm self-employed.
 14 Q. And what type of work is that?
 15 A. We're in the construction business.
 16 Q. Are you a part owner of a construction company?
 17 A. Yes, ma'am.
 18 Q. Mr. Carmouche, directing your attention back to
 19 December 8th, 1998, when you woke up that morning, did
 20 you go to wake up your daughter, Mary?
 21 A. No. I was getting ready to -- I was getting
 22 myself ready to go to work. And usually at around 5:00,
 23 okay, I turn the TV on and watch the early news. And as
 24 I was walking out of the kitchen, I went and got a cup
 25

42 of coffee and I heard the news going on about it was a
 1 carjacking, shooting. And then I just stopped to look
 2 at it for a minute. And when they started describing,
 3 you know, the vehicles -- and I think one of the
 4 reporters said, And a young girl was taken, and so --
 5 and they thought her name was Mary, or one guy had said
 6 Mary. So I ran back to her room and looked, and then
 7 that's when I --
 8 Q. Was there anybody in Mary's room?
 9 A. No, her room was empty.
 10 Q. What did you do at that point?
 11 A. I ran to my bedroom, woke up my wife, and woke
 12 up -- went to my oldest daughter's room and woke her up.
 13 Q. What's her name?
 14 A. Leticia.
 15 Q. What did you tell Leticia to do?
 16 A. To find out if Mary had stayed the night with a
 17 friend of hers down the street. And she called there.
 18 Mary wasn't there, so I told her to call the police
 19 department and get some more information on that
 20 incident. And when we did that, that pretty much
 21 confirmed it was her.
 22 Q. Let me stop you there. When you went to Mary's
 23 room, did you go anywhere in the house after finding
 24 that Mary wasn't there?
 25

43 A. Leticia's room. And I could see the boys' room. The door was open.
 1 Q. And you couldn't see Mary at all?
 2 A. Mary wasn't in the house. She wasn't in the living room. I looked in the living room. She wasn't in there.
 3 Q. I'm going to have to show you, Mr. Carmouche, a morgue photo that's labeled State's Exhibit 104. Is that a photograph of your daughter, Mary Carmouche?
 4 A. Yes.
 5 Q. How old was Mary when she was killed, Mr. Carmouche?
 6 A. She was -- she had turned seventeen a couple of months before that.
 7 Q. Okay. And was she working when she was killed?
 8 A. Yes, ma'am, she was working at McDonald's.
 9 Q. Did she go to school?
 10 A. Yes, ma'am.
 11 Q. And where did she go to school?
 12 A. At Barbara Jordan High School.
 13 Q. What year was she in?
 14 A. She was in the 11th grade. This was going to be her senior year.
 15 Q. This would have been her senior year?
 16 A. Yes.

44 Q. And State's Exhibit 77, that is a picture of your daughter, Mary Carmouche?
 1 A. Yes, ma'am.
 2 Q. And where was that taken?
 3 A. That was at R.O.T.C.
 4 Q. Is that at Barbara Jordan?
 5 A. Yes, ma'am.
 6 Q. If she was killed in her junior year, when would this picture have been taken, the year before?
 7 A. That year.
 8 Q. The year --
 9 A. Yes.
 10 Q. Okay.
 11 A. Let me see.
 12 Q. '96 to '97, it says?
 13 A. Right, that's it. It was in '97.
 14 Q. Her sophomore year in high school?
 15 A. Yeah.
 16 MS. CONNORS: I pass the witness.
 17 CROSS-EXAMINATION
 18 BY MR. HILL:
 19 Q. Mr. Carmouche, my name is Wayne Hill. You and I have never met before, correct?
 20 A. That's correct.
 21 Q. I've got to ask you some questions, and I hope

45 that you'll bear with me. I don't mean to offend you. I don't mean to make your pain any worse than it already is, but I want to ask you some questions about people that Mary may have associated with, okay? Did you know her friend, Dion Holley?
 1 A. Never seen him before in my life.
 2 Q. Did you know an individual by the name of Kevin Walter?
 3 A. I never met -- no, I've never met Kevin.
 4 Q. Did you know an individual by the name of Terrence Gibson?
 5 A. No, sir.
 6 Q. Have you since come to learn that your daughter was with those three individuals on the evening that she was killed?
 7 A. Yes, sir.
 8 Q. All right. When was the last time that you actually saw Mary prior to waking up on the 8th and seeing the news reports and realizing that it very well could have been her they were talking about?
 9 A. That Sunday night around 8:30, 9:00 o'clock that evening.
 10 Q. Okay. What were the circumstances of your last seeing her?
 11 A. Well, we were -- myself and my other two sons

46 and my little girl, we were watching TV. Mary was in the room, and I think they were playing a radio. And she was back and forth from her room to Leticia's room.
 1 Q. She was what?
 2 A. She was going back and forth from her room to Leticia's room. And I remember telling them, Turn the music down.
 3 Q. All right. And did you say good night to her at some point, or that's kind of the last thing you remember about having seen Mary, somewhere around 8:30, 9:00 o'clock on Sunday night?
 4 A. Yeah. Before I went to bed, I told them again, Turn the music down.
 5 Q. About what time did you go to bed?
 6 A. About 9:30.
 7 Q. When you went to bed at 9:30, was Mary dressed or was she in a pair of shorts, getting ready for bed? Can you describe what she was wearing?
 8 A. Well, I went into my bedroom; and my wife and Mary went to the store, so if she was dressed --
 9 Q. Do you recall what she was wearing the last time you saw her?
 10 A. Tennies and, like, a red pair of jeans.
 11 Q. As far as you know, did your wife and Mary both come back from going to the store? Do you recall?

47 A. Yes, they did.
 1 Q. At some point after that, do you know how Mary
 2 comes to leave the house?
 3 MS. CONNORS: I would object. That would
 4 be hearsay. He said he went to sleep.
 5 THE COURT: That's not exactly what he
 6 said. Do you know of your own knowledge how she left
 7 your house?
 8 MS. CONNORS: Not what someone told you.
 9 Judge, the question is, did he see her leave the house?
 10 THE COURT: Rephrase your question,
 11 please.
 12 Q. (BY MR. HILL) When your wife and Mary came
 13 home, you were still awake?
 14 A. Yeah.
 15 Q. Did you see how Mary left the house?
 16 A. No, I didn't.
 17 Q. Did you lock the front and back door before
 18 going to bed? Or after your wife and Mary got home, did
 19 you lock the doors to the house?
 20 A. They -- the rear of the house was already
 21 locked. And I guess when they came in, they locked the
 22 front door. My wife checks all the doors every night,
 23 so I know the front door was locked.
 24 Q. All right. After they came home, did you see

49 A. No, sir.
 1 Q. Thank you, sir.
 2 MR. HILL: I have no further questions.
 3 MS. CONNORS: I have no further questions.
 4 THE COURT: You may stand down.
 5 Call your next witness.
 6 MS. CONNORS: State would call Dr. Milton.
 7 THE COURT: Proceed, please.
 8 DR. ROGER MILTON,
 9 having been first duly sworn, testified as follows:
 10 DIRECT EXAMINATION
 11 BY MS. CONNORS:
 12 Q. Sir, could you introduce yourself to the jury,
 13 please?
 14 A. My name is Dr. Roger Milton.
 15 Q. And where do you work, Doctor?
 16 A. I work at the Harris County Medical Examiner's
 17 Office as an assistant medical examiner.
 18 Q. Can you tell the jury what your background and
 19 training is that allows you to hold your present
 20 position?
 21 A. I graduated from Howard University College of
 22 Medicine. I did a pathology residency at Howard
 23 University, and a forensics pathology fellowship in
 24 Baltimore, Maryland, and have been at the medical

48
 1 how Mary left the house?
 2 A. No, sir.
 3 Q. Did you hear a horn or anything beeping out in
 4 front of your house?
 5 A. No, sir.
 6 Q. Had you ever seen -- had anybody ever brought
 7 your daughter home in a blue Lexus?
 8 A. I have seen the car. I never seen the
 9 occupants of the car.
 10 Q. Did you ever discuss with your daughter the
 11 fact that she was with certain people in that car?
 12 A. Yes.
 13 Q. All right. Was that a situation that you were
 14 upset about?
 15 A. Very.
 16 Q. And the following morning after you see the TV
 17 show and you're now returning to the back of your house
 18 trying to see if Mary's home, do you look at all in the
 19 bedroom she stays in?
 20 A. Yes.
 21 Q. Was there anything unusual that you saw when
 22 you looked around the room?
 23 A. She wasn't in there. Other than that,
 24 everything was in place.
 25 Q. Did you look at the windows at all?

50
 1 examiner's office in Houston for about one year.
 2 Q. What is forensic pathology, Doctor?
 3 A. Forensic pathology is a subspecialty of the
 4 overall study of pathology, which is the science of
 5 diseases, the causation processes, ramifications, et
 6 cetera. Forensic pathology is the branch that deals
 7 with determination of the causation and manner of death.
 8 Q. Is your medical license here on file in Harris
 9 County, Texas?
 10 A. Yes, it is.
 11 Q. Doctor, as part of your duties as an assistant
 12 medical examiner, do you perform autopsies?
 13 A. Yes.
 14 Q. Can you tell the jury what an autopsy is,
 15 please?
 16 A. An autopsy is, in a nutshell, a scientific
 17 exercise where we use observation skills, scientific
 18 skills, and just a basic overall knowledge to determine
 19 what the causation of a person's death would be. We use
 20 external examination, documenting all wounds, any
 21 abnormalities on the external surfaces of the body, as
 22 well as full examination of the organ systems, sometimes
 23 microscopic examinations and just documentation of any
 24 abnormalities that we uncover.
 25 Q. Doctor, on December 9th, 1998, did you perform

51
1 an autopsy on Mary Carmouche?
2 A. Yes.

3 Q. How did you go about dictating your findings
4 when you were examining the body of Mary Carmouche?
5 A. Well, at the time of autopsy, everything that
6 we observe, we document on a chart written, as well as a
7 verbal dictation into a cassette tape. So, as we
8 observe the appearance of the body externally, we
9 describe it on the tape and continue to describe the
10 entire autopsy. And that tape is later transcribed into
11 a typewritten report form.

12 Q. Let me show you what's been marked as State's
13 Exhibit 103. Is this the autopsy report for Mary
14 Carmouche?

15 A. Yes.

16 Q. Every time a person dies, does the medical
17 examiner's office perform an autopsy?

18 A. No.

19 Q. Is an autopsy report made in the normal course
20 of business of the medical examiner's office?

21 A. Yes.

22 Q. Is the information placed on the report made by
23 someone who has personal knowledge of what they're
24 observing? That would be you; is that correct?

25 A. Yes.

53
1 on December 9, 1998?
2 A. Yes.

3 MS. CONNORS: Your Honor, at this time I
4 tender to defense counsel all the numbers that I just
5 read into the record and ask they be admitted.

6 MR. HILL: No objection, Your Honor.

7 THE COURT: State's Exhibits 104 through
8 111 are admitted.

9 Q. (BY MS. CONNORS) Doctor, when you first
10 perform the autopsy, what do you first do?

11 A. Well, the first step of the autopsy is
12 documentation of the external appearance of the body.

13 Q. Can you describe the external appearance of
14 Mary Carmouche, please?

15 A. Yes. She was a well-developed, well-nourished,
16 young, black female in apparent good health. She had
17 multiple excoriations on her body, face, arms, and legs,
18 hands, that are consistent with postmortem insect
19 feeding.

20 Q. What is excoriation mean?

21 A. Excoriation is basically a sheering -- just an
22 absence of the external surface of the skin, the most
23 superficial layer. Her autopsy was remarkable for an
24 apparent gunshot wound to the right side of her chest.
25 And she had a linear superficial cut or scrape to her

52
1 Q. You have personal knowledge. You dictate your
2 findings into a cassette recorder?

3 A. Correct.

4 Q. And it's transcribed?

5 A. Right.

6 Q. And after you dictate your findings and the
7 report is transcribed, do you review this report?

8 A. Yes.

9 Q. And as an assistant medical examiner, do you
10 have care, custody, and control of the records at the
11 medical examiner's office?

12 A. Yes.

13 MR. MCCLELLAN: Your Honor, at this time
14 I'd offer into evidence State's Exhibit 103.

15 MR. HILL: No objection, Your Honor.

16 THE COURT: State's 103 is admitted.

17 Q. (BY MS. CONNORS) Doctor, as part of your job
18 in doing the autopsy, part of the documentation process,
19 do you photograph the bodies and the findings, what you
20 see when you're performing the autopsy?

21 A. Yes.

22 Q. Let me show you what's been marked for
23 identification purposes only as State's Exhibits 104,
24 105, 106, 107, 108, 109, 110, and 111. Are these
25 photographs that you took of Mary Carmouche's body back

54
1 right arm. And aside from that, the external appearance
2 was unremarkable.

3 Q. Can you describe the internal appearance of
4 Mary Carmouche?

5 A. The gunshot wound tract extended through the
6 right side of her chest in a front to back and downward,
7 slightly right to left trajectory. It penetrated the
8 fifth rib on the right side of the chest. Also went
9 through the right lung, the upper portion of the right
10 side of the heart, and the medial, which is the middle
11 portion of the liver; and we recovered a bullet from the
12 back muscle.

13 Q. Okay.

14 A. She had a significant amount of blood in the
15 right side of her chest, about 1100 millimeters; and she
16 also had blood surrounding the heart enclosed in the
17 pericardial sac, about seventy-five milliliters.

18 Q. Why was that blood there? What caused the
19 blood to be there?

20 A. The perforation of the heart.

21 Q. Did you remove a bullet from Mary Carmouche's
22 body?

23 A. Yes, I did.

24 Q. Where was that bullet removed from?

25 A. It was removed from the muscle of the central

55 portion of the right side of her back.

1 Q. Let me show you what's been marked for
2 identification purposes only as 9 -- State's Exhibit 91,
3 a manila envelope. Is that your writing on State's
4 Exhibit 91?

5 A. Yes, it is.

6 Q. Did you place your initials, name, Carmouche,
7 the date of the autopsy, December 9th, 1998, and the
8 medical legal number, Case No. 98-3385?

9 A. Yes, I did.

10 Q. And each time an autopsy report is done, is
11 there a specific number that is assigned to that
12 particular case?

13 A. Yes.

14 Q. And is that the case number that I just read
15 from in State's Exhibit 91?

16 A. Yes, it is.

17 Q. And is this the bullet you recovered from the
18 right back of Mary Carmouche on December 9th, 1998?

19 A. Yes.

20 Q. Did you also put your initials and the case
21 number on the plastic envelope that I removed from
22 State's Exhibit 91?

23 A. Yes, I did.

24 Q. What was the cause of death of Mary Carmouche?

56 A. The cause of death was a gunshot wound of the
1 chest.

2 Q. And what was the manner of death?

3 A. The manner of death was homicide.

4 Q. Doctor, can you step down and show the
5 photographs that you took of the body of Mary Carmouche
6 when you performed the autopsy? Keep your voice up and
7 explain to the jury what these photographs show, please.
8 Let me hand you State's Exhibit 104.

9 A. This is a photograph of the face of the
10 decedent, the excoriations that I described earlier,
11 this reddened area. The purple discoloration is what we
12 term lividity. It looks like a bruising; but in fact,
13 it's an actual settling of the blood. Since the victim
14 was found facedown, the blood tends to pool on the
15 anterior or front surface of the body, including the
16 face. So those are not bruises.

17 Q. And State's Exhibit 105, what does that show,
18 Doctor?

19 A. This is a relatively close shot of the gunshot
20 entrance wound to the right side of the chest.

21 Q. Was there any soot or stippling around that
22 wound?

23 A. I did not observe any.

24 Q. Let me show you what's been marked as State's

57 1 Exhibit 106. What does that show, Doctor?

2 A. This is a photograph of the right arm that
3 shows the multiple excoriations that I described that
4 are consistent with postmortem insect feeding.

5 Q. And State's Exhibit 107, what does that show,
6 sir?

7 A. This is more of the same on the left arm of the
8 postmortem insect activity, the reddish areas.

9 Q. And State's Exhibit 108 and 109?

10 A. These are the hands, and they show more of the
11 same.

12 Q. State's Exhibit 110, Doctor, what does that
13 show?

14 A. This is the scratch or scrape of the right arm.

15 Q. And State's Exhibit 111, sir, what does that
16 show?

17 A. This is just a closer shot of the scrape of the
18 right arm that I just showed.

19 Q. Could you tell whether or not this was a recent
20 scrape?

21 A. Yes, it's a recent scrape.

22 Q. Doctor, within approximately how many hours
23 does lividity fix?

24 A. Lividity, it fixes approximately twelve hours.
25 And it's -- that's an approximation. It depends on a

56 1 A. The cause of death was a gunshot wound of the
2 chest.

3 Q. And what was the manner of death?

4 A. The manner of death was homicide.

5 Q. Doctor, can you step down and show the
6 photographs that you took of the body of Mary Carmouche
7 when you performed the autopsy? Keep your voice up and
8 explain to the jury what these photographs show, please.
9 Let me hand you State's Exhibit 104.

10 A. This is a photograph of the face of the
11 decedent, the excoriations that I described earlier,
12 this reddened area. The purple discoloration is what we
13 term lividity. It looks like a bruising; but in fact,
14 it's an actual settling of the blood. Since the victim
15 was found facedown, the blood tends to pool on the
16 anterior or front surface of the body, including the
17 face. So those are not bruises.

18 Q. And State's Exhibit 105, what does that show,
19 Doctor?

20 A. This is a relatively close shot of the gunshot
21 entrance wound to the right side of the chest.

22 Q. Was there any soot or stippling around that
23 wound?

24 A. I did not observe any.

25 Q. Let me show you what's been marked as State's

58 1 lot of factors; environmental temperature, et cetera,
2 the state of health of the individuals. It starts to
3 set in quickly after death. You can begin to see it
4 about maybe at one half to two hours. And it usually
5 becomes settled or what we term fixed at about twelve
6 hours.

7 Q. Can you tell us the angle of the gun with
8 respect to Mary Carmouche's shot of the chest at the
9 time she was shot?

10 A. Yes, I could say that the angle of the muzzle
11 of the gun at the time it was fired was above the point
12 of entry. It was pointing downwards and slightly toward
13 the midline.

14 Q. Doctor, as part of the autopsy report, is a
15 toxicological report done with the examination of the
16 bodily fluids to determine whether there is any drugs in
17 the person's system?

18 A. Yes.

19 Q. Was there an analysis done to determine whether
20 there were drugs in Mary Carmouche's system?

21 A. Yes, there was.

22 Q. Did Mary Carmouche have any type of alcohol or
23 drugs in her system?

24 A. She did not.

25 Q. Doctor, did you also perform the autopsy on

59
1 Terrence Gibson?

2 A. Yes, I did.

3 Q. Could you tell us the cause of death of
4 Terrence Gibson?

5 A. Mr. Gibson died of a gunshot wound of the
6 chest.

7 Q. Can you tell the jury what path the bullet
8 traveled?

9 A. The path the bullet traveled was from the front
10 to the back, from the left to the right side of the
11 chest, and downward. The bullet entered the far lateral
12 upper aspect of the left side of the chest, just
13 anterior or to the front of the armpit on the left side.
14 It went through the space between the fifth and sixth
15 ribs, went through the lung, the diaphragm, penetrated
16 the thoracic and abdominal aorta, which is a very large
17 blood vessel that runs along the anterior aspects of the
18 backbone, and fixed in the 11th vertebrae of the
19 backbone, and also penetrated the liver.

20 Q. Did you remove a bullet from Mr. Gibson's body?

21 A. Yes, I did.

22 Q. Where was that bullet removed from?

23 A. It was removed -- it was actually between the
24 right side of the liver and the overlying diaphragm.

25 Q. Let me show you what's been marked as State's

61
1 Q. (BY MS. CONNORS) Let me show you State's
2 Exhibit 90 and its contents. What is this, Doctor,
3 within the plastic bag that I removed from State's
4 Exhibit 90?

5 A. That's the bullet recovered from Mr. Gibson.

6 Q. Did you also place the medical legal number on
7 this plastic bag with your initials and the date that
8 you performed the autopsy?

9 A. Yes, I did.

10 MS. CONNORS: Your Honor, at this time I
11 tender to defense counsel State's Exhibit 90 and offer
12 it into evidence, State's Exhibit 90 and its contents.

13 MR. HILL: No objection.

14 THE COURT: State's 90 and its contents
15 are admitted.

16 Q. (BY MS. CONNORS) Doctor, when you performed an
17 external view of Mr. Gibson, did you find any tattoos on
18 his body?

19 A. Yes, Mr. Gibson had multiple tattoos.

20 Q. When you performed the examination of his body,
21 did you find any stippling on his body?

22 A. I did.

23 Q. Where did you find stippling?

24 A. I found stippling around the gunshot entrance
25 wound, and also on the front aspect of his left arm.

60
1 Exhibit 90 and its contents. Is this a manila envelope
2 where you placed your initials, the date, and the case
3 number assigned to the autopsy report of Terrence
4 Gibson?

5 A. Yes.

6 Q. Let me show you what's been marked for
7 identification purposes only as State's Exhibit 99. Is
8 that the autopsy report you did on Terrence Gibson?

9 A. Yes, it is.

10 Q. True and correct copy?

11 A. It is.

12 Q. Was that autopsy report made in the normal
13 course of the business of the medical examiner's office?

14 A. Yes, it was.

15 Q. Was it made -- the information that was placed
16 there -- made by someone who has personal knowledge of
17 the information summation?

18 A. Yes.

19 Q. Do you have care, custody, and control of the
20 records of the medical examiner's office?

21 A. Yes.

22 MS. CONNORS: Your Honor, at this time I
23 tender to defense counsel State's Exhibit 99.

24 MR. HILL: No objection, Your Honor.

25 THE COURT: State's 99 is admitted.

62
1 Q. When you say the front aspect of his left arm,
2 could you point to your arm and show us what you're
3 talking about? So it's up towards your shoulder; is
4 that correct, of your left arm?

5 A. On the arm itself, but on the very front aspect
6 of it.

7 Q. Doctor, can you explain to the jury what
8 stippling means, please?

9 A. Stippling refers to injuries left on the skin
10 as a result of discharge of a firearm. What it actually
11 is grains of gunpowder that are propelled out behind
12 the bullet as it leaves the barrel of the gun; and along
13 with the bullet, these particles of powder impact on the
14 skin and they leave little injuries, abrasions, little
15 circular abrasions.

16 Q. If you see stippling on a person's body, what
17 does that indicate to you with respect to the distance,
18 how close the firearm was to that person?

19 A. It indicates that it's what we term in
20 forensics an intermediate range gunshot wound, which
21 means that it's anywhere from no more than eighteen
22 inches or two feet from the body.

23 Q. The bullet, State's Exhibit, I believe -- is it
24 90, Doctor -- that's next to you that you removed from
25 Terrence Gibson's body, what kind of bullet was that?

63 A. It was a large caliber hollow-point bullet.
 1 Q. And what does a hollow-point bullet do once it
 2 goes into a person's body?
 3 A. A hollow-point bullet has a hollowed-out point,
 4 or the front of the bullet is hollowed out. What that
 5 tends to do is slow the bullet down. As the bullet
 6 expands, it impacts against the tissue, slows the bullet
 7 down, and is essentially created to prevent perforating
 8 injuries or prevent bullets from exiting the opposite
 9 sides of the body.
 10 Q. What do you mean when you say perforating
 11 injuries?
 12 A. Perforating is a wound that travels completely
 13 through a body as opposed to when it just enters and
 14 remains inside.
 15 Q. A hollow-point bullet is designed to cause more
 16 damage if it enters a person's body?
 17 A. Yes.
 18 Q. Did you also, as part of your examination of
 19 Mr. Gibson's body, did you take photographs?
 20 A. Yes, I did.
 21 Q. Let me show you what's been marked State's
 22 Exhibits 100, 101, and 102. Are these photographs that
 23 you took when you performed the autopsy on Terrence
 24 Gibson?

65 Q. Doctor, was an analysis also performed of the
 1 body fluids of Mr. Gibson to determine whether or not he
 2 had any drugs in his system?
 3 A. Yes, it was.
 4 Q. Was there any alcohol in Mr. Gibson's system?
 5 A. There was not.
 6 Q. Was there any drugs in his body?
 7 A. There was not.
 8 Q. And the cause of death of Mr. Gibson was
 9 gunshot wound to the left chest; is that correct?
 10 A. Yes.
 11 Q. What was the manner of death?
 12 A. Homicide.
 13 MS. CONNORS: I'll pass the witness, Your
 14 Honor.
 15 CROSS-EXAMINATION
 16 BY MR. HILL:
 17 Q. Dr. Milton, my name is Wayne Hill. You and I
 18 have not met before?
 19 A. No.
 20 Q. I want to just kind of walk you through a
 21 little bit so the jury might understand some of the
 22 mechanics of protocols that you use in the medical
 23 examiner's office regarding the performance of an
 24 autopsy.

64 A. Yes, they are.
 1 MS. CONNORS: Your Honor, at this time I
 2 tender to defense counsel State's Exhibit 100, 101, 102,
 3 and offer them into evidence.
 4 MR. HILL: I have no objection.
 5 THE COURT: State's 100, 101, and 102 are
 6 admitted.
 7 Q. (BY MS. CONNORS) Doctor, could you step down
 8 and show the jury what you found? You told the jury, I
 9 believe, there were multiple tattoos; is that correct?
 10 A. Yes.
 11 Q. Are those shown on State's Exhibit 100?
 12 A. You see some of the tattoos on the right arm.
 13 Q. What are they tattoos of?
 14 A. There is a tattoo of a circle with blood
 15 dripping from it and of a large cat scratching.
 16 Q. Was there also a tattoo of an old man? Is
 17 that shown on there? I can't see. Doctor, what does
 18 State's Exhibit 101 show?
 19 A. This photograph shows the gunshot entrance
 20 wound of the left side of the chest. Also shows a large
 21 tattoo of the left chest and the tattoo on the left arm.
 22 Q. And State's Exhibit 102, is this a closer --
 23 A. That is closer view of the same gunshot
 24 entrance wound.

66 First of all, when the autopsy of Miss
 1 Carmouche and the autopsy of Mr. Gibson were performed,
 2 were there police officers present at the time?
 3 A. There were.
 4 Q. All right. Is it pretty common for members of
 5 the homicide division or some police agency to be
 6 present when you're doing an autopsy?
 7 A. Yes.
 8 Q. When you have a body that you have the
 9 responsibility of performing the autopsy on, are there
 10 other factors that you take into consideration for
 11 making a determination of death and a manner of death?
 12 A. Yes.
 13 Q. How do you go about doing that?
 14 A. A lot of what we use, as far as coming to a
 15 final decision, as far as cause and manner of death, has
 16 a lot to do with the scene investigation, police report,
 17 any other information that could, you know, be --
 18 Q. Assist you?
 19 A. Exactly.
 20 Q. Is it clear to you, though, when you begin an
 21 autopsy -- in other words, when you first come into the
 22 examination room and you start to actually evaluate the
 23 body, you already have information given to you, and the
 24 police have already basically told you what their theory

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1 is?

2 A. Usually, yes.

3 Q. And is that the situation in both of these
4 cases, that prior to you actually beginning the external
5 examination and then the internal examination, you had
6 already met with the homicide detectives?

7 A. Not in this case. I knew there were gunshot
8 wound injuries, but I hadn't met with them until
9 actually starting the autopsy.

10 Q. Okay. Are you talking with the officer during
11 the autopsy?

12 A. Somewhat.

13 Q. Do you at some point call them over and show
14 them certain aspects of what you're doing and talking
15 about there that's significant to their investigation?

16 A. There are actually a lot of different styles
17 that the different police officers use. Sometimes the
18 officer that's present has no knowledge of the case, and
19 other times they have some knowledge; but it's usually
20 an officer that's on the outskirts of the case and not
21 involved.

22 Q. Okay. Do you recall in the autopsy of Mary
23 Carmouche who the detective was that was present?

24 A. I don't recall.

25 Q. And what about with Mr. Gibson?

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1 A. I don't recall if they were involved with the
2 case or if they were there as an observer.

3 Q. Okay. You indicated that microscopic evidence
4 is often recovered from the body?

5 A. Yes.

6 Q. Would you describe for the jury the
7 significance of microscopic evidence?

8 A. Microscopic evidence usually comes into play
9 when you have a natural death or a death that's with no
10 external injuries or causes, such as stab, gunshot
11 wound, or strangulation, et cetera. It's usually a
12 young person who dies unexpectedly, and we're basically
13 looking for disease processes when we take small
14 sections of each organ and examine them under the
15 microscope to make sure they're functioning properly and
16 no disease process is going on.

17 Q. How does that contrast with the phrase, trace
18 evidence? Are you familiar with that phrase?

19 A. Yes.

20 Q. What is trace evidence?

21 A. Trace evidence is -- and again, I want to
22 preface my statement by saying that's really not my area
23 of expertise. I do have some experience with it. Trace
24 evidence is basically a collection of evidence that's of
25 more or less a foreign material that's usually on the

69

1 external aspects of the body, the clothing, the skin,
2 and basically examining those external pieces of
3 information, fibers, body fluids, chips of paint, et
4 cetera. And in case they could come into use later on
5 where, you know, evidence, did someone leave this at the
6 scene, et cetera, you can tie things in.

7 Q. It's kind of like when fingerprints are left
8 behind?

9 A. Right, right.

10 Q. Okay. When you examined the body of Mary
11 Carmouche, it's my understanding -- and if you need to
12 check your report, please do so; but the body is located
13 on December 8th at approximately 12:30 p.m. Do you know
14 when someone from the Harris County Medical Examiner's
15 Office would have been dispatched and actually arrived
16 at the scene?

17 A. No, I wouldn't know that.

18 Q. Do you know whether or not your records reflect
19 whether body temperature was taken at the time the
20 M.E.'s Office arrives?

21 A. Yes, sometimes that's done, but not as a
22 routine. A lot of times body temperature is taken once
23 the body arrives at the morgue.

24 Q. Was that done in this case?

25 A. Let me check my report. Yes, according to this

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1 report, the body temperature was taken at the scene.

2 Q. Okay. And in your opinion, did that aid you in
3 fixing the time of death?

4 A. It didn't.

5 Q. What does that tell us, then, about if a body
6 temperature is a certain amount at the time of the
7 location of the body, help us understand why that would
8 or would not aid you in determining and fixing the time
9 of death?

10 A. The reason that the body temperature is --
11 there are formulas that have been, you know, elucidated,
12 et cetera, that kind of gives you a range of usefulness
13 with the body temperature calculation. The problem is
14 body temperature is variable in individuals. It varies
15 based on activities, states of health; and the body
16 temperature decreases or increases according to
17 environmental conditions, the clothing, the temperature
18 outside, et cetera. Is it windy? Is it warm, humidity
19 et cetera? So it's an extremely variable thing. We
20 usually like to use a window that's based mostly on
21 rigor mortis, which is stiffness of the body and
22 lividity.

23 Q. So in this instance, when you located the body
24 of Mary Carmouche, you had not been able to actually
25 fix, with any degree of certainty, the time of death?

71 A. The fact that she had fixed lividity would make
 1 me think she was there longer than twelve hours. She
 2 had rigor mortis still apparent at the time of the
 3 autopsy; so I would say that before she was refrigerated
 4 or placed in a cooling tank, she had probably been dead
 5 between thirty-six and forty-eight hours at the far end
 6 of the estimate.

7 Q. And what about at the near end of the estimate?

8 A. The near end, I'd say twenty-four to thirty-six
 9 hours.

10 Q. You mention the word variable when you talk
 11 about the temperature and stuff?

12 A. Right.

13 Q. Let me ask you a couple of questions regarding
 14 the gunshot wounds, themselves, that you observed.

15 A. Uh-huh.

16 Q. On Mary Carmouche, there is no stippling.
 17 There is no contact with a weapon, right?

18 A. Right, not on the skin.

19 Q. Right. And you can't say from what distance
 20 the shot was fired that caused the injuries that you
 21 observed? In other words, you don't have a distance?

22 A. No.

23 Q. With regard to the injury that you checked on
 24 Mr. Gibson, you indicated that there was faint

72 stippling?

1 A. Correct.

2 Q. And you indicated that would generally say
 3 somewhere between eighteen and twenty-four inches?

4 A. Somewhere within eighteen to twenty-four
 5 inches, so a shorter distance than eighteen to
 6 twenty-four inches. And let me also say with regard to
 7 stippling, an exact determination can't be made unless
 8 the actual bullet type is used and test fired in the
 9 exact gun; because different types of ammunition contain
 10 different types of powder, different loads, et cetera.

11 Q. I was going to ask you that very question.
 12 Would the caliber of a weapon alter the distance from
 13 which it had to be fired in order to generate the
 14 stippling?

15 A. Yes.

16 Q. I didn't mean to interrupt you. Does a larger
 17 caliber weapon necessarily mean it could be fired from a
 18 further distance and still cause the stippling to occur?

19 A. Right. A more powerful weapon -- say, for
 20 example, a .357 Magnum versus a .38 Special. I'd expect
 21 to see stippling out to a greater distance with a more
 22 powerful weapon, because there is more powder and more
 23 powder is needed to generate velocity.

24 Q. And I think in this case you described the

73 bullet as being a large caliber?

1 A. Yes.

2 Q. So that would mean a more powerful type handgun
 3 would have had to have fired that?

4 A. No, not particularly. That's also quite
 5 variable. Different loads, the size or caliber of the
 6 bullet. There is no indication on the amount of powder
 7 or the velocity that the bullet had. You have slower
 8 moving large bullets, faster moving large bullets, et
 9 cetera; so, it's extremely variable.

10 Q. So, the estimate you give of eighteen to
 11 twenty-four inches could alter out to a greater
 12 distance?

13 A. It could, theoretically.

14 Q. Now let me clarify something so I make sure the
 15 jury understands. State asked you what the cause of
 16 death was. That is an objective evaluation. A metal
 17 object came into contact with the tissue, did enough
 18 damage to cause that person to cease to live?

19 A. Correct.

20 Q. When you talk about the manner of death, the
 21 use of the word homicide does not equate to murder, does
 22 it?

23 A. It does not.

24 Q. Homicide is defined as what?

74 A. I define it as the death of one human being at
 1 the hands of another.

2 Q. Okay.

3 A. It's -- and there again, there are gray zones
 4 and varying opinions in the field of forensics with
 5 regard to the usage of accidental deaths versus
 6 homicide. I tend to view the intentional death of one
 7 human to another as a homicide.

8 Q. Is that something that is in the protocol of
 9 the Harris County Medical Examiner's Office? In other
 10 words, you don't -- when you give a manner of death and
 11 it's signed by Doctor Joyce Carter, Chief Medical
 12 Examiner, you don't say this was an intentional
 13 homicide; it's homicide?

14 A. Right, we don't.

15 Q. And that designation does not say what the
 16 circumstances were, whether it was an accident, whether
 17 it was self-defense, whether the gun -- whatever
 18 happened, you're saying that a person came to their
 19 death as a result of unnatural causes?

20 A. Correct.

21 Q. All right.

22 MR. HILL: May I have just one moment,
 23 Judge?

24 THE COURT: Yes.

79
1 deputy administrator. Three months ago it got changed.
2 I used to be a latent print examiner.

3 Q. Let me stop you there. Tell the jury what a
4 latent print is.

5 A. A latent print is a reproduction of the ridges
6 that we have on our fingers, palms, and bottom of our
7 feet that are sometimes left behind when certain items
8 are touched.

9 Q. Are you saying that every time you touch a
10 surface, you leave a latent print?

11 A. No, ma'am, that's only in the movies.

12 Q. And as part of your duties, you take what we
13 call fingerprints and latent prints and compare them and
14 determine whether or not they are usable or good enough
15 to be able to make an identification; is that correct?

16 A. Only on latent prints we do evaluations.

17 Q. What would -- you said only latent prints?

18 A. Yes, ma'am.

19 Q. What do you do an evaluation on?

20 A. You mentioned latent prints and you mentioned
21 taking inked fingerprints. They are two different.

22 Q. Okay. Tell the jury what you do with respect
23 to latent prints.

24 A. Among my duties as a latent print examiner or
25 Deputy Administrator is to receive latent prints from

81 1 Quantico, Virginia.

2 Q. As part of your duties on December 8th, 1998,
3 Mr. Saldivar, did you go to the vehicle examination
4 building at the Houston Police Department to process a
5 1994 blue Lexus with license plates B42 CRC?

6 A. That is correct.

7 Q. And when we talk about processing a vehicle,
8 what does that mean, sir?

9 THE COURT: Can you hold up just a second?
10 (Off-the-record discussion.)

11 THE COURT: Proceed, please.

12 Q. (BY MS. CONNORS) I'm not sure what my last
13 question I asked you was. Can you explain to the jury
14 what that is, sir?

15 A. When I'm assigned to process a vehicle, I do a
16 walk-through. In other words, I like to see what's
17 there. I want to make sure all photographs have been
18 taken -- that's what is needed -- inside the vehicle and
19 outside the vehicle. Any damage to the vehicle I needed
20 recorded, as with photographs. I don't know
21 photography. I always get somebody to do it for me; and
22 most likely, it's the officer assigned to the vehicle
23 examination building. Once they take the photograph,
24 then I come in and do my part.

25 Q. Let me show you what's been admitted into

80 1 crime scenes, do an evaluation, to see if they're
2 suitable for identification. I also receive evidence
3 from crime scenes to be processed in the latent lab,
4 using fingerprint powders, chemicals, photography,
5 lasers, in attempt to develop suitable latent prints.

6 Q. During your twenty-seven years with the Houston
7 Police Department, have you received certain training
8 that allows you to do your job, Mr. Saldivar?

9 A. Yes, ma'am.

10 Q. And what is that training?

11 A. Before working for the police department, I was
12 employed by the FBI, working also in their
13 identification division while employed with the FBI. I
14 attended the FBI fingerprint school with the City of
15 Houston. I've attended the basic identification -- the
16 Basic I.D. school at the D.P.S. Academy in Austin,
17 Texas. I've attended the Advanced Latent Fingerprint
18 School at the D.P.S. Academy in Austin, Texas. I've
19 attended a Palm Print Symposium at the Houston Police
20 Academy instructed by Mr. Ron Smith, who is Associate
21 Director of the Mississippi State Crime Lab. I've
22 attended the Advanced Latent Fingerprints Photography
23 School at the Houston Police Academy, instructed by the
24 FBI. And I have attended the Administrative Advanced
25 Latent Fingerprint School at the FBI Academy in

82 1 evidence as State's Exhibits 67. Is this the blue Lexus
2 that you examined back on December 8th, 1998?

3 A. Yes, ma'am.

4 Q. Did you examine the interior of the blue Lexus
5 to see whether or not you could find any latent prints?

6 A. Yes, ma'am, the interior and the outside of the
7 vehicle was processed for latent prints.

8 Q. Just talking about the interior of the vehicle,
9 did you find any latent prints?

10 A. Yes, ma'am, I did.

11 Q. Where did you find the latent prints?

12 A. Four latent prints were developed from -- they
13 were left inside the front passenger side door window,
14 driver's side front, top of the hood by the headlight,
15 and from inside lower door frame, rear passenger side,
16 inside by the seat.

17 Q. And were you able to make a determination as to
18 whose latent prints those were?

19 A. Yes, ma'am, did I.

20 Q. And whose latent prints were they?

21 A. Latent print comparison revealed that the
22 latent prints, two latent prints from inside the lower
23 door frame, by the rear passenger door inside by the
24 seat, is the right ring and right little fingers of
25 Mr. Dion Holley.

83 Q. And did you make a determination as to the
 1 other two latent prints, who they belonged to?
 2 A. They were not identified.
 3 Q. Did you compare those two other latent
 4 prints -- and where did you say you found those in the
 5 car?
 6 A. The ones that are identified?
 7 Q. The ones that were not identified.
 8 A. From the hood by the headlight and from the
 9 front passenger side door window.
 10 Q. And you compared those two latent prints with
 11 Kevin Walters; is that correct?
 12 A. That's correct.
 13 Q. With the defendant, Charles Mamou?
 14 A. That's correct.
 15 Q. With Mary Carmouche?
 16 A. That's correct.
 17 Q. Terrence Gibson?
 18 A. Terrence Dodson, Dion Holley, Samuel Johnson,
 19 Terrence Gibson, and Howard Earl Scott.
 20 Q. And you were unable to identify who those two
 21 latent prints belonged to; is that correct?
 22 A. That's correct.
 23 Q. On the outside of the vehicle, were you able to
 24 find any latent prints?
 25

85 within the vehicle left there and the items you took
 1 back to the police department, were you able to find any
 2 latent prints?
 3 A. Yes, ma'am.
 4 Q. And where did you find any latent prints?
 5 A. From a piece of paper. One was from the
 6 passenger rear seat, and one was on the floorboard.
 7 Q. The paper that was on the passenger rear seat,
 8 what kind of paper was that?
 9 A. I have it listed -- the one with the writing
 10 numbers came from the driver's side -- excuse me --
 11 driver's side floorboard, rear floorboard.
 12 Q. And the other paper that you talk about, where
 13 did that come from, sir?
 14 A. It came from the driver's side rear seat, top
 15 of the seat; and it's -- one says, "How to use your
 16 message manager," and it gives information on how to
 17 retrieve messages or whatever.
 18 Q. And it's a particular company that's explaining
 19 how to retrieve your messages from the message manager?
 20 A. Yes, ma'am, Express Message Corporation, and a
 21 phone number.
 22 Q. And you found how many latent prints on that
 23 piece of paper concerning the message?
 24 A. One on each item.
 25

84 A. No, ma'am.
 1 Q. Were there items inside -- inside the car?
 2 A. Yes, there were.
 3 Q. And did you process items inside the car?
 4 A. Yes, I did.
 5 Q. Approximately how many items were there?
 6 A. I don't recall at this point, but I do know
 7 that any item that I can process using fingerprint
 8 powder is processed at that point.
 9 Q. And you took approximately fifty items with you
 10 back to the police department to process; is that
 11 correct?
 12 A. That's correct.
 13 Q. And that does not include the items that you
 14 processed and left in the vehicle; is that correct?
 15 A. No, ma'am. The items that I recovered to take
 16 to the crime lab is to use other types of examination,
 17 including chemicals that we cannot use at the crime --
 18 or not the crime scene, but anyplace where there is not
 19 a vent-a-hood.
 20 Q. Anyplace where there is not a what?
 21 A. A vent-a-hood.
 22 Q. What's that?
 23 A. A vent.
 24 Q. Of all the items that you processed, both

86 Q. And you compared those prints with a list of
 1 people you just named?
 2 A. That's correct.
 3 Q. And you were not able to match up their prints
 4 on either of those pieces of paper; is that correct?
 5 A. That's correct.
 6 Q. Did you also print State's Exhibit 31, the
 7 Victoria's Secret bag?
 8 A. Yes, ma'am, I did.
 9 Q. And were you able to obtain any latent prints
 10 on State's Exhibit 31?
 11 A. Yes, I was.
 12 Q. Were you able to make an identification with
 13 the latent prints that you found on State's Exhibit 31?
 14 A. Yes, I did.
 15 Q. Let me -- when I talk about printing State's
 16 Exhibit 31, did you also print the contents of State's
 17 Exhibit 31?
 18 A. Those items right there, we don't print. Those
 19 items are chemically processed with a chemical called
 20 ninhydrin, and I'll spell it: N-I-N-H-Y-D-R-I-N.
 21 Q. All the newspaper clippings that are in State's
 22 Exhibit No. 31, did you put ninhydrin on there?
 23 A. Yes, ma'am, along with the two other pieces
 24 that I developed latent prints.
 25

87
1 Q. Let me show you what's been marked for
2 identification purposes as State's Exhibit 93. Do you
3 recognize State's Exhibit 93?
4 A. Yes, ma'am, I do.
5 Q. What is State's Exhibit 93?

6 A. They are two pieces of advertisement clippings
7 that were cut out that came from the paper bag.

8 MS. CONNORS: Your Honor, at this time I
9 tender to defense counsel State's Exhibit 93 and offer
10 it in evidence.

11 MR. HILL: We're not going to have any
12 objection, Your Honor.

13 THE COURT: State's 93 is admitted.

14 Q. (BY MS. CONNORS) What did you find on State's
15 Exhibit 93, two pieces of --

16 A. Newspaper clippings?

17 Q. Yes, sir.

18 A. Yes, there is one latent print that was
19 chemically developed.

20 Q. At my request, did you take the fingerprints of
21 the defendant, Charles Mamou, who is on trial?

22 A. Yes, ma'am.

23 Q. Let me show you what's been marked as State's
24 Exhibit 95, are these the fingerprints of the defendant,
25 Charles Mamou?

89
1 A. Yes. He's the black male with the brown suit
2 on.

3 MS. CONNORS: Your Honor, may the record
4 reflect the witness has identified the defendant?

5 THE COURT: It will.

6 Q. (BY MS. CONNORS) When you were processing the
7 inside of the vehicle, Mr. Saldivar, did you find an
8 unfired 9 millimeter bullet in that vehicle?

9 A. Yes, ma'am.

10 Q. And where did you find that unfired 9
11 millimeter bullet?

12 A. It's on the little tray.

13 Q. In the car?

14 A. In the vehicle.

15 Q. And this is a picture; is that correct, of the
16 blue Lexus with the unfired 9 millimeter bullet?

17 A. Yes, ma'am.

18 MS. CONNORS: Your Honor, at this time I
19 tender to defense counsel State's Exhibit 85 and offer
20 it in evidence.

21 MR. HILL: No objection.

22 THE COURT: State's 85 is admitted.

23 Q. (BY MS. CONNORS) And State's Exhibit 97, is
24 that the unfired 9 millimeter bullet that's shown in
25 State's Exhibit 85?

88
1 A. Yes, ma'am. This is the right hand, left hand
2 fingerprints of Charles Mamou.

3 Q. Did you do that this morning?

4 A. Yes, I did.

5 Q. The latent prints that you found on State's
6 Exhibit 93 -- did you photograph the latent prints found
7 on State's Exhibit 94?

8 A. That is correct.

9 Q. Did you compare those latent prints that you
10 found on the newspaper clippings, State's Exhibit 93,
11 that you removed from the Victoria's Secret bag, and
12 compare them with the defendant, Charles Mamou?

13 A. Yes, ma'am, I did.

14 Q. Were those latent prints found on State's
15 Exhibit 93 or taken from the bag, the defendant's
16 prints?

17 A. One latent print.

18 Q. And which latent -- which finger was that?

19 A. One latent print was identified as a right
20 thumb.

21 Q. And for the record, sir, could you please point
22 out the person whose fingerprints you took this morning
23 that are shown on State's Exhibit 95 and whose
24 fingerprint you found on the newspaper clipping, State's
25 Exhibit 93?

90
1 A. Yes, ma'am.

2 Q. Mr. Saldivar, did you also process evidence
3 that was found at the scene of the shooting of Mary
4 Carmouche?

5 A. Yes, ma'am.

6 Q. Let's talk about that. Did you process State's
7 Exhibit 89, an unfired bullet?

8 A. Yes, I did.

9 Q. And are those your -- is that your initials,
10 sir?

11 A. Yes, R.G. has a circle around it.

12 Q. And what type of chemical or fingerprint powder
13 did you use to process State's Exhibit -- contents of
14 State's Exhibit 89?

15 A. Those types of items are strictly fingerprint
16 powder.

17 Q. Does the type of surface affect whether or not
18 you're going to be able to obtain a fingerprint?

19 A. Yes, ma'am, that is just one of the factors.

20 Q. And the type of surface and the size of this
21 bullet in State's Exhibit 89, how would that affect
22 whether or not you could get a print?

23 A. How it's handled. To leave a latent print, all
24 we have to do is touch it. But in order to leave a
25 latent print, we need certain ingredients. Perspiration

91 is one of them, the type of surface. Imagine an unfired
 2 cartridge. What is it that's going to be touching it?
 3 When you touch it, are you going to roll your finger or
 4 are you just going to hold it? In a portion of latent
 5 print to be identified, we need a certain area of the
 6 finger; and in that area we need certain characteristics
 7 to make a positive identification. Otherwise, the
 8 impression is not suitable.

9 Q. If you take State's Exhibit 89 and you put it
 10 in a magazine, put it in the firearm, and then ratchet
 11 it or put State's Exhibit No. 89 in the chamber, would
 12 that affect whether or not there might be a latent print
 13 on there?

14 A. Yes, ma'am, it will.

15 Q. How would that affect?

16 A. The fact that the force -- your finger is going
 17 to be sliding. It's going to be mushing it, the fact
 18 that it's going to go into the magazine. And most
 19 likely, if it goes up to the barrel, it's going to
 20 slide.

21 Q. And were you able to obtain a latent print from
 22 State's Exhibit 89?

23 A. No, ma'am.

24 Q. Were you also submitted three pieces of blue
 25 plastic covered with dirt to determine -- examine it for

92 latent prints?

1 A. That's correct.

3 Q. Were you able to find any latent prints on the
 4 dirty plastic?

5 A. No, ma'am.

6 Q. Were you also submitted a fireplace poker tool?

7 A. That's correct.

8 Q. Were you able to find any latent prints on the
 9 fireplace poker tool?

10 A. No, ma'am.

11 Q. Let's go one step further. With respect to a
 12 bullet, if a bullet is placed in the magazine and then
 13 fired and what's left or the cartridge casings, would
 14 that affect a cartridge casing -- what effect would that
 15 have once it's gone through the barrel and been actually
 16 fired?

17 A. We know that heat destroys latent prints. When
 18 a weapon fires a bullet, there is a tremendous amount of
 19 heat generated. If there is any latent print on the
 20 cartridge itself, it's going to be destroyed. And
 21 again, sometimes they're covered with powder. The black
 22 powder is burnt.

23 MS. CONNORS: I pass the witness, Your
 24 Honor.

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CROSS-EXAMINATION

1 BY MR. HILL:

3 Q. Am I to understand you to say that you can
 4 never ever recover a latent print from a fired cartridge
 5 casing?

6 A. Only if it gets touched after it gets fired.

7 Q. Okay. So there is no scientific basis for
 8 being able to determine if there is a fingerprint on a
 9 fired cartridge case?

10 A. Only after you process it.

11 Q. If you knew that a crime scene had not been
 12 disturbed and that people came up to a crime scene and
 13 there were cartridge casings on the ground after having
 14 been fired and that no one had touched them, there would
 15 be no reason for even comparing them to see if there
 16 were prints on them, right?

17 A. No, it doesn't work like that. If it's
 18 evidence, it's going to be processed.

19 Q. And that evidence is a body of science that you
 20 are familiar with, because you're the deputy
 21 administrator of the print lab over at H.P.D., right?

22 A. No, sir. I'm just one of the deputy
 23 administrators assigned to the latent lab. There is
 24 seven of us.

25 Q. Oh, they changed your title?

94

1 A. They changed the title, the duties, and the pay
 2 is the same.

3 Q. You used to wear your blue uniform when you
 4 come to court. You wear a suit now?

5 A. Yes, sir; because I have to go some other place
 6 after here.

7 Q. Well, let's talk a little bit about the value
 8 of the latent print. You were describing to the jury
 9 that certain factors have to be present. Now, you're
 10 not -- when you say perspiration, you're not meaning to
 11 suggest to the jury a person has to be sweating when
 12 they touch something, correct?

13 A. No, sir.

14 Q. There are natural body oils and other pieces of
 15 substance -- can I finish my question before you answer?
 16 Okay. There are things that are inherent on a person's
 17 fingertips, or their feet for that matter, that leave
 18 impressions on surfaces, correct?

19 A. That's correct.

20 Q. My question was, you were not trying to suggest
 21 to the jury that in order to leave a print on a surface
 22 that the person had to be perspiring or sweating?

23 A. No, sir. In the contrary, sometimes it works
 24 against me when they perspire too much.

25 Q. Okay. Now, so you go through this whole Lexus,

1 and you testified about everything you've tested to see
 2 if there were any kind of prints that you could testify
 3 about; and you gave a list of people who you did compare
 4 the prints with. And after comparing the prints that
 5 you were able to receive from the Lexus with those that
 6 were submitted to you, you found no matches other than
 7 Dion Holley?

8 A. That's correct.

9 Q. Let's move to the paper bag. I want to
 10 understand you a little bit better about how you
 11 actually print the contents; because of this entire bag,
 12 you say there are two items that are reflected in
 13 State's Exhibit 93 that actually have a fingerprint on
 14 them?

15 A. That's correct.

16 Q. Now, is that to say that all of the other items
 17 in that bag do not have fingerprints on them?

18 A. No. It reflects and mentions that some papers
 19 have no indication of being touched; and there were
 20 other papers indicating they got touched, but no
 21 suitable latent prints developed. The only ones we
 22 photograph are the ones that can be identified.

23 Q. Now, did you attempt to eliminate certain
 24 prints based on the partial information that you had
 25 from the other pieces of paper in here against the list

96 of names that had been previously given to you?

1 A. If the latent print cannot be identified, then
 2 it's worthless.

3 Q. Okay.

5 A. You cannot eliminate them, period.

6 MR. HILL: May I approach the witness,
 7 Your Honor?

8 THE COURT: Yes.

9 Q. (BY MR. HILL) I'm going to show you what's
 10 already been marked now as State's Exhibit No. 94 and
 11 ask you if you can identify that for us?

12 A. Yes, I can.

13 Q. What is that, please?

14 A. It's a photograph of one of the latent prints
 15 from one of the pieces of newspaper or advertisement.

16 Q. Okay.

17 MR. HILL: May I approach the witness
 18 again?

19 THE COURT: Yes.

20 Q. (BY MR. HILL) Let me show you the contents of
 21 State's Exhibit 97. We're not going to ask it be
 22 introduced in evidence, but can you tell me what type of
 23 bullet that is?

24 A. It's a 9 millimeter R-P Lugar.

25 Q. What type of bullet is that? Is there any

97 other descriptive information that you provide on that
 1 type of bullet?

3 A. It's fired by a semiautomatic pistol.

4 Q. Okay. And can you tell us whether or not --
 5 can you tell from looking at that whether that's a
 6 hollow-point bullet or not?

7 A. It is a hollow-point.

8 Q. And this is the bullet that was found inside
 9 the blue Lexus that you processed?

10 A. That's correct.

11 Q. I just want to clarify one thing. Miss Connors
 12 asked you if she was going to talk to you about evidence
 13 that was recovered from the scene where Mary Carmouche
 14 was shot. You're not suggesting to this jury that you
 15 have any specific information that Mary Carmouche was
 16 actually shot at the location where her body was found,
 17 do you?

18 A. Do I have any?

19 Q. Right.

20 A. No, sir, I didn't go to the scene.

21 Q. So you're not trying to suggest to the jury
 22 that you believe that Mary Carmouche was shot on
 23 Lynchester, where her body was recovered?

24 A. No, sir, just what I read in the paper back
 25 then and things like that.

98 Q. All right. Also, I believe, if I'm not
 1 mistaken, when the State was asking about Exhibit No.
 2 89, when they first showed you this exhibit and they
 3 asked you about your ability to take a fingerprint off
 4 this, did you make certain assumptions when you
 5 responded to that question?

6 A. Repeat the question.

7 Q. Sure. When they showed this to you and they
 8 asked you about your ability to take a fingerprint off
 9 this or lift a latent print, did you make certain
 10 assumptions in responding to that question?

11 A. No, sir.

12 Q. Let me ask you, didn't you assume, in
 13 responding, that you said that most people would hold
 14 the bullet like this?

15 A. No.

16 Q. Okay. Show me how you said a person would
 17 normally --

18 A. If you go to load it in a clip --

19 Q. Okay.

20 A. -- it's going to go like this; and you're going
 21 to push down, because it's got to click. Then you've
 22 got to shove it in there.

23 Q. Okay.

24 A. The area that's touching and the area that's

99 1 sliding and the force that you're using, the possibility
 2 of leaving a latent is very, very slim, almost none.
 3 Q. Okay.

4 A. But there will be an occasion that it got
 5 touched.

6 Q. Were there indications that this got touched?
 7 A. Yes, sir.

8 THE COURT: Was that 89?

9 MR. HILL: 89.

10 Thank you very much, sir. I have no
 11 further questions.

12 MS. CONNORS: I have no further questions.

13 THE COURT: You may stand down.

14 Ladies and gentlemen, at this time we're
 15 going to break for lunch. All the previous admonitions
 16 are still in effect. Please go back in the jury room.

17 (Outside jury's presence:)

18 MR. HILL: All we were going to do, Judge,
 19 is -- State's Exhibit 94 is a photograph of the
 20 fingerprint information taken off a slip of paper from
 21 inside State's Exhibit No. 31. We have agreed that
 22 we're going to make a photocopy of this so that we can
 23 delete the reference to the name, Tyrone Davis, with an
 24 FBI number on it and a date; because that's a name
 25 attributed to the defendant from some other matter.

100 1 THE COURT: Tyrone Davis?

2 MR. HILL: Tyrone Davis.

3 THE COURT: That's an alias?

4 MR. MCCLELLAN: The only problem -- I
 5 don't know why we're entering it. The photograph is --
 6 you can tell is not very good to begin with. You
 7 couldn't see diddly on it anyway. And by the time you
 8 photocopy it, it's even going to be worse -- I hope
 9 not -- to leave the impression that this guy doesn't
 10 know what he's doing. I mean, I can see what I believe
 11 to be some type of prints there. I'm just afraid that
 12 in the --

13 THE COURT: You want to photocopy for the
 14 record; but for purposes in case the jurors ask for
 15 it --

16 MR. MCCLELLAN: He's going to make another
 17 one.

18 MR. HILL: That's fine. Thank you.

19 (Lunch recess).

20 (Continuing after lunch.)

21 MR. MCCLELLAN: State would offer into
 22 evidence State's Exhibit 94.

23 MR. HILL: No objection.

24 MR. MCCLELLAN: The photograph we talked
 25 about getting reduplicated.

101 1 (Jury is brought in and seated.)

2 THE COURT: You have a tender?

3 MR. MCCLELLAN: State would offer into
 4 evidence State's Exhibit 94.

5 MR. HILL: No objection.

6 THE COURT: State's 94 will be admitted.
 7 Call your next.

8 MR. MCCLELLAN: State would call Robert
 9 Baldwin.

10 ROBERT BALDWIN,

11 having been first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. MCCLELLAN:

14 Q. Would you state your name for the record,
 15 please?

16 A. Yes, sir. Good afternoon. My name is Robert
 17 Baldwin.

18 Q. Mr. Baldwin, how are you employed?

19 A. I'm employed by the Houston Police Department.
 20 My job title is Criminalist IV, and I'm assigned to the
 21 H.P.D. Firearms Laboratory.

22 Q. How long have you been with the H.P.D. Firearms
 23 Laboratory?

24 A. I'm in my eleventh year, sir.

25 Q. Can you tell the ladies and gentlemen of the

102 1 jury about the training you have that qualifies you as a
 2 firearms examiner?

3 A. Yes, ma'am. My formal education consists of
 4 bachelor of science, a juris doctorate's degree. I've
 5 been in the field of criminalistics for in excess of
 6 twenty years now and better than twelve of that have
 7 been in firearms related examination. I've received
 8 specialized training at the FBI, A.T.F., Smith & Wesson
 9 Arms, Colt Arms, Remington Arms, Sig arms, Glock arms.
 10 I've also done course work in forensic microscopy at
 11 McCrone Institute.

12 Q. Can you tell the ladies and gentlemen of the
 13 jury, is it possible to take a casing that has been
 14 fired in a firearm and determine whether another casing
 15 has been fired out of the same firearm?

16 A. Yes, sir, that is possible, again, depending on
 17 the condition of the fired cartridge cases. Assuming
 18 that the condition of the exhibits -- of the fired
 19 cartridge cases are suitable for comparison, yes, it can
 20 be done.

21 Q. And is it possible to take a projectile that is
 22 fired from a firearm and compare it with another
 23 projectile fired from a firearm and tell whether or not
 24 they were fired in the same or in different firearms?

25 A. Yes, sir, again, depending on the condition of

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1 the fired bullets, it is possible to do that.

2 Q. Okay. And have you, on few or many occasions,
3 made comparisons of fired cartridge casings to determine
4 whether or not they came from a certain firearm or from
5 the same firearm?

6 A. I've done that on numerous occasions.

7 Q. Concerning fired projectiles or bullets from a
8 gun that have been fired through a gun, have you also
9 made numerous comparisons of those to determine what
10 type of firearm they were fired from or whether they
11 were fired from the same firearm?

12 A. Yes, sir, on numerous occasions.

13 Q. And is that the bulk of your work in the
14 firearms examination area with the Houston Police
15 Department?

16 A. That's a major portion of the work that I do,
17 yes, sir.

18 MR. MCCLELLAN: May I approach the
19 witness, Your Honor?

20 THE COURT: Yes.

21 Q. (BY MR. MCCLELLAN) Let me show you what's been
22 marked as State's Exhibit No. 38 and ask you if you
23 examined State's Exhibits 38 during your work in this
24 case?

25 A. Yes, sir, I did.

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1 Q. And was that a weapon that was submitted to you
2 in the firearms laboratory for you to test and examine?

3 A. Yes, sir, it was.

4 Q. And was State's Exhibit 38, when it was
5 submitted to you, were there also numerous live rounds
6 of ammunition that were submitted along with a clip?

7 A. Yes, sir, there were a number of unfired
8 cartridges.

9 Q. And let me show you what's been marked as
10 State's Exhibit 39 and ask you if those are the
11 remaining unfired cartridges that were submitted with
12 that firearm, State's Exhibit 38?

13 A. Yes, sir, they are.

14 Q. How many live rounds were submitted with
15 State's Exhibit 38 by the time you received them in the
16 laboratory?

17 A. Twelve, sir.

18 Q. How many remain?

19 A. The contents of State's No. 39 are a total of
20 nine.

21 Q. And what happened to the other three?

22 A. As is our custom, we utilize three of the
23 cartridges that are submitted with the firearm for
24 testing.

25 Q. And when you use it for testing, can you tell

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1 the ladies and gentlemen of the jury what you do with a
2 firearm?

3 A. Well, before actually test firing the gun, the
4 firearm was examined for its overall condition and
5 functionality. The trigger pull is measured. And once
6 those tests have been completed, the firearm is actually
7 test fired into a water recovery tank where we're able
8 to retrieve both the fired bullets, as well as the fired
9 cartridge cases.

10 Q. Okay. Did you have occasion then to compare
11 the fired cartridge cases that you recovered by test
12 firing State's Exhibit 38 with other cartridge cases
13 that were submitted to you as evidence in this case?

14 A. Yes, sir, I did.

15 Q. Let me show you what's been marked -- what's
16 been introduced into evidence as State's Exhibits 26
17 through 30 and ask you if you compared the fired
18 cartridge cases that you test fired in State's Exhibit
19 38 with State's Exhibits 28 through -- 26 through 30?

20 A. Yes, sir, I did.

21 Q. And do you have an opinion as to whether or not
22 State's Exhibit 38 fired the cartridge cases in State's
23 Exhibits 26 through 30?

24 A. Yes, sir, I do have an opinion.

25 Q. What is that opinion?

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1 A. That the five fired cartridge cases contained
2 in State's 26, 27, 28, 29, and 30 were not fired from a
3 9 millimeter semiautomatic pistol, which is State's
4 Exhibit 38.

5 Q. Now when you fired State's Exhibit 38, was it
6 in a working order?

7 A. Yes, sir, it was.

8 Q. Did you also compare the fired -- am I using
9 the right term by saying bullets, or what do you call
10 the end that leaves through the gun? What is that
11 called?

12 A. Projectile would be fine, or fired bullet.

13 Q. Okay. Did you also compare the projectiles
14 that were test fired in State's Exhibits 38 with State's
15 Exhibits 79, 84, 90, and 91 to determine whether or not
16 State's Exhibit 84, 79, 90, or 91 were fired out of that
17 same State's Exhibit 38?

18 A. Yes, sir, I did.

19 Q. And what is your opinion?

20 A. That none of the bullets contained in either
21 State's 79, 84, 90 or 91 were fired in this 9 millimeter
22 semiautomatic pistol, State's 38.

23 Q. Were you able to, by comparison, determine
24 whether or not State's 26, 27, 28, 29, and 30 -- were
25 you able to determine, or do you have an opinion as to

107 1 whether or not they were fired out of the same firearm?
 2 A. Yes, sir, I do have an opinion.
 3 Q. What is that?
 4 A. The five fired 9 millimeter Lugar cartridge
 5 cases in those exhibits were fired out of a single
 6 firearm.
 7 Q. So State's Exhibits 26 through 30 were fired
 8 out of the same firearm?
 9 A. That is correct, sir.
 10 Q. Did you -- was a firearm ever submitted to you
 11 other than State's Exhibits 38?
 12 A. No, sir.
 13 Q. So you don't know what firearm fired those?
 14 A. No, not the precise firearm. I do not have
 15 that.
 16 Q. Okay. Did you have an occasion to examine
 17 State's Exhibit No. 89 as part of your firearms
 18 examination work?
 19 A. Yes, sir, I did.
 20 Q. And that is a live round?
 21 A. Non-fired cartridge, yes, sir.
 22 Q. Okay. Were you able to make any type of
 23 comparison between the live, unfired cartridge, State's
 24 Exhibit 89, with any of the cartridge cases, State's
 25 Exhibits 26 through 30?

108 1 A. Yes, sir. Only two with respect to certain
 2 markings that were left by the magazine. There were
 3 magazine markings present on the unfired cartridge,
 4 which is contained in State's 89. And I compared the
 5 magazine markings evident on that cartridge to the
 6 magazine markings that were present on one of the 9
 7 millimeter cartridge cases, specifically the cartridge
 8 designated ECC-2.
 9 Q. Okay. And when you made that comparison, do
 10 you have an opinion as to whether or not they were in
 11 the same magazine?
 12 A. Yes, sir, I do.
 13 Q. And what is that opinion?
 14 A. That the fired -- unfired cartridge that is
 15 contained in State's No. 89 was cycled at some time
 16 through the same magazine as the fired cartridge case
 17 which is designated ECC-2, which I believe is State's
 18 Exhibit No. 27.
 19 Q. Okay. So State's Exhibit No. 27, ECC-2, and
 20 State's Exhibit No. 89, which is designated E-1 --
 21 A. That's correct, sir.
 22 Q. Okay. They have the same magazine marks?
 23 A. That's correct, sir.
 24 Q. Now, if you could take -- State's Exhibit No.
 25 38 has a magazine with it; is that correct?

109 1 A. That's correct, sir.
 2 Q. And is that what you're holding now?
 3 A. Yes, sir.
 4 Q. What you refer to as a magazine?
 5 A. That is correct, sir.
 6 Q. Can you tell me what causes the markings to be
 7 left on State's Exhibit 27 and State's Exhibit 89? How
 8 are those markings created from it being in a magazine?
 9 A. Perhaps if I could be allowed to demonstrate.
 10 Q. Okay.
 11 A. When a magazine of the -- is loaded --
 12 Q. You might want to step down here so they can
 13 see, if you can.
 14 MR. MCCLELLAN: Is this agreeable with the
 15 Court?
 16 THE COURT: Yes.
 17 Q. (BY MR. MCCLELLAN) Be sure and keep your voice
 18 up, please.
 19 A. Yes, I will. What I have in my left hand is
 20 a -- perhaps a typical detachable style magazine that
 21 would be commonly used with a semiautomatic pistol. In
 22 order to fire the firearm of the pistol, an individual
 23 would have to load cartridges into the magazine as I'm
 24 doing now. As you can see, I place the cartridge at the
 25 top of the magazine; and I depress a part of the

110 1 magazine known as the follower, and the cartridge is
 2 slid into position. And you do this, of course, until
 3 you've either loaded the magazine to its full capacity
 4 or however many you plan to place in the magazine. And
 5 you'll notice that once the cartridge is placed into the
 6 magazine, the cartridge at the top is being held in
 7 position by these two extensions or top edges of the
 8 magazine known as the lips of the magazine.
 9 Once this magazine then would be inserted
 10 into the firearm, the first thing that would have to be
 11 done -- and I won't actually insert the magazine into
 12 the firearm -- but if I were to insert this magazine
 13 into the firearm, the first thing that would happen is
 14 that this magazine would be positioned -- excuse me --
 15 in such a manner that the first cartridge in the
 16 magazine would be basically at the bottom area of the
 17 slide. And once I release the slide in that manner, the
 18 closing of the slide will force or strip that cartridge
 19 from the top of the magazine and force it forward and
 20 upward; and as that cartridge is forced out of that
 21 magazine, there will be markings left on the side
 22 wall -- this area -- of that cartridge. And so each
 23 time this cartridge were to be cycled or passed through
 24 the magazine in that manner, you would produce a pair of
 25 magazine marks on the side wall of that cartridge.

111 Q. Thank you. So State's Exhibit 89, which is the
 1 live round that was recovered from Lynchester, was in
 2 the same -- has the same magazine marks as the fired
 3 cartridge case, 27 -- State's Exhibit 27 that was
 4 recovered from Lantern Point?

5 A. That is correct, sir.

6 Q. Were you able to compare the fired jacketed
 7 lead bullets, which are State's Exhibits 79, 84, 90 and
 8 91 with each other to determine whether or not you could
 9 determine if they were fired -- any of those were fired
 10 out of the same firearm?

11 A. Yes, sir, I did exactly that type of
 12 comparison.

13 Q. And did you determine whether or not any of
 14 those fired jacketed lead bullets were, in your opinion,
 15 fired from the same firearm to the exclusion of all
 16 others?

17 A. Yes, sir. I made that determination in a
 18 comparison with respect to the fired bullet, which is
 19 EB-2, which is State's 79, when as compared to the fired
 20 jacketed bullet, which is designated EB-4, which is
 21 State's No. 90.

22 Q. And what was your opinion in relation to those
 23 two?

24 A. With respect to those two fired jacketed

112 bullets, it was my opinion that they were fired in the
 1 same firearm.

2 Q. As to State's Exhibits 84, 79, 90, and 91, were
 3 you able to make -- arrive at any type of opinion
 4 concerning all of those jacketed lead bullets?

5 A. With respect to all four of the fired jacketed
 6 bullets, they exhibited the same class characteristics.
 7 That is, they were of the same caliber and had the same
 8 number of lands and grooves, the same direction of twist
 9 and width of rifling; however, it was only with respect
 10 to State's 79 and State's 80 (sic) that I could actually
 11 make an identification.

12 THE COURT: I'm sorry. Which two?

13 THE WITNESS: 79, Your Honor, and 90.

14 Q. (BY MR. MCCLELLAN) But as to all the fired
 15 jacketed lead bullets, I believe you said they had the
 16 same rifling characteristics?

17 A. Same class characteristics.

18 Q. Same class characteristics?

19 A. That's correct, sir.

20 Q. And the same rifling pattern?

21 A. Well, that would be part of the class
 22 characteristics.

23 Q. Okay. Class characteristics, so that -- which
 24 is another way of saying class characteristics?

113 A. Rifling caliber, as well as the caliber.
 1 Q. All four of those, State's Exhibits 79, 84, 90,
 2 and 91, were what caliber of bullet?
 3 A. They're consistent with a 9 millimeter Lugar.
 4 Q. What is the direction of twist?
 5 A. To the right, sir.
 6 Q. And what is -- what are the numbers of lands
 7 and grooves?
 8 A. Eight lands and grooves.
 9 Q. That's consistent with all four?
 10 A. That is correct, sir.
 11 Q. Is there anything in your -- any characteristic
 12 or anything that you observed in your examination that
 13 would exclude EB-3, which is State's Exhibit No. 91, the
 14 bullet that was taken from Mary Carmouche, that would
 15 exclude it from being fired in the same firearm that
 16 fired all the other fired jacketed lead bullets?

17 A. No, sir, there is not.

18 MR. MCCLELLAN: I'll pass the witness,
 19 Your Honor.

20 CROSS-EXAMINATION

21 BY MR. HILL:

22 Q. Mr. Baldwin, I just have a couple of questions,
 23 if I may. When you use the word, same class
 24 characteristics, how do you define the word, class?

114 1 I'm not sure if I understand what that means.
 2 A. Well, it's a group of characteristics, for
 3 instance, probably best explained by the fact that if
 4 you had two Smith & Wesson revolvers, Smith & Wesson .38
 5 Specials, for instance, those would have the same
 6 caliber. They would have the same number of lands and
 7 grooves, in that case five, the same direction of
 8 twists, which would be to the right. And traditionally,
 9 their rifling pattern is about equal of the land widths
 10 and groove widths. That would be the class
 11 characteristics, so that you would have many .38 Special
 12 Smith & Wesson firearms having those characteristics.

13 Q. Okay. When you refer to class characteristics,
 14 then, are you saying class is similar to manufacturer?
 15 In other words, you just used the example of two
 16 different Smith & Wesson .38 revolvers.

17 A. Correct.

18 Q. So would you always be describing the same
 19 manufacturers' gun when we talk about class
 20 characteristics, or could there be other manufacturers?

21 A. There could be other manufacturers utilizing
 22 the same class characteristics. In other words, Smith &
 23 Wesson uses a five lands and grooves rifling pattern.
 24 There are other manufacturers that also use that same
 25 five lands and grooves rifling pattern. It's not

115 necessarily unique to one particular manufacturer. It
 1 can be, depending on if they use some very odd rifling
 2 pattern.

116 Q. And there are some guns that have something
 1 like that that are real odd, that make them unique?

117 A. Yes, there are some manufacturers. For
 1 instance, Glock uses a rifling pattern known as
 2 polygonal rifling, which is fairly unusual. And there
 3 are probably only two or three other manufacturers using
 4 them.

118 Q. Would it be easier to identify a cartridge or a
 12 bullet fired from a Glock than it would some other
 13 weapon?

14 A. Not necessarily. It only applies to the class.

15 Q. Because their characteristics are more unique?

16 A. More unique.

17 Q. And is this a product that the manufacturer's
 18 wanting to make it that way?

19 A. In some instances, it's a conscious effort.
 20 Some instances, it's just a pattern that they have been
 21 using for years.

22 Q. But the idea of the lands and grooves that
 23 we're talking about is the intention of having those
 24 inside the barrel of the gun to project the bullet out
 25 in a straight motion, right?

117 sides by two magazine clips.

118 Q. Okay. Do you have any idea as to how many of
 1 those type of magazines are manufactured or are in
 2 existence here in the United States?

119 A. I'm sure there are many thousands.

120 Q. When you make your examination, I assume you
 121 are not using just your naked eye?

122 A. That's correct, sir.

123 Q. Could you describe to the jury, what is it that
 124 you use to try and distinguish one item of evidence from
 125 the next that you're comparing it with?

126 A. First of all, the examination and comparison of
 127 whether it be a fired bullet or fired cartridge case is
 128 done on a specialized microscope known as a comparison
 129 microscope; and by its design, that microscope allows me
 130 to look at two exhibits simultaneously so that I have
 131 one fired cartridge case on one stage and a second fired
 132 cartridge case on another stage. And I'm able to look
 133 at those through a single set of eyepieces and a split
 134 screen view so I can see the right-hand cartridge case
 135 on the right side of the microscope, and view the left
 136 hand on the left. So I'm able to look at those two side
 137 by side, simultaneously, under magnification.

138 Depending on the nature of the
 139 examination, then I would be looking at -- if it was a

116 1 A. Actually, it's not necessarily in a straight
 2 motion, but to impart rotation to projectile in order to
 3 increase its accuracy and stability in flight.

117 4 Q. Ultimately, the result is they're doing these
 5 manufacturing and tooling things to ensure the best they
 6 can that when a bullet leaves the end of the barrel,
 7 it's going to go straight as opposed to just going
 8 wherever?

118 9 A. That's a fairer statement.

119 10 Q. May not be a very technical statement in your
 11 world, but that's -- if I'm understanding it correctly,
 12 that's --

118 13 A. That's accurate, sir.

119 14 Q. How many -- you use the phrase -- when
 15 Mr. McClellan showed you the magazine from State's
 16 Exhibit 38, you said it was a typical detachable
 17 magazine?

118 18 A. Yes, sir.

119 19 Q. What makes it typical?

20 20 A. Simply the fact that it's -- there are
 21 magazines that are not detachable that would be unusual
 22 in a pistol. It uses a staggered magazine design, which
 23 nowadays higher capacity pistols are using these
 24 staggered magazines. The magazine also narrows at the
 25 top, and the single cartridge is being held on both

118 1 fired cartridge case, I was looking at the primer, I
 2 would be looking at the breech face markings, firing pin
 3 impression. If it was the side wall of the cartridge
 4 case that was fired, I would be looking at chamber
 5 marks, extractor marks, items of that nature.

118 6 Q. So when you have multiple cartridge cases, like
 7 in this you had five that were fired, that were
 8 submitted, do you take the first one and compare it to
 9 the second and then the first to the third? How do you
 10 rerotate to see if each of the five match the other
 11 characteristics?

118 12 A. The -- quite typically, it would be the first
 13 cartridge case that we'd start with and be doing it in
 14 comparison to the breech face marks. Again, it would
 15 depend on each cartridge case, whether they do not
 16 always mark identically. And so in some areas there can
 17 be variations. And if I was able to match ECC-1, or
 18 first cartridge case to ECC-2, I would probably continue
 19 to compare two to one, three to one, and so forth. But
 20 if necessary, I could refer to one of the other ones if
 21 it had already been identified to the first exhibit.

22 22 Q. Is that what you did in this case, used one as
 23 the standard and compared to it?

24 24 A. Yes.

25 25 Q. You mentioned something. You said there might

119 1 be different marks on each of a particular piece of
 2 evidence that's submitted. Did I understand correctly
 3 that there may not be exactly the same markings that
 4 you're comparing on each of the five?

5 A. The markings may not -- all the markings may
 6 not reproduce off a cartridge case.

7 Q. And in this situation, when you were comparing
 8 the cartridge cases, did each of the cartridge cases
 9 have an equal number of markings that you compared over
 10 the partial markings that you were comparing?

11 A. I really don't recall to that extent. All I
 12 can tell you is that based on the examination, I was
 13 able to find enough individual markings, as well as
 14 there was agreements of the class characteristics such
 15 that I was able to determine that all five of the
 16 cartridge cases were fired from one firearm.

17 Q. Okay. What are the different things that you
 18 look at, the different -- well, you've described the
 19 fact that these are magazine marks. That is a -- what
 20 is the word I'm looking for to describe what a magazine
 21 mark is? When you're making an evaluation, is that one
 22 of the items that you look for?

23 A. Let's be clear. With respect to the five fired
 24 cartridge cases, they are identified to each other.

25 Q. Right.

121 A. In the comparison of the unfired cartridge,
 2 there was a magazine marking that I was looking at.
 3 With respect to the five fired cartridge cases, the
 4 magazine marks were not part of that determination;
 5 because I was trying to determine if the cartridge cases
 6 were fired from the same gun.

7 Q. Okay. So what are you looking for on four?
 8 You're seeing if they were fired from the same gun?

9 A. That is, the markings left by the breech face,
 10 the fire pin impression, and chamber marks.

11 Q. Those were three different markings that you
 12 described. Do you find all three of those different
 13 markings coming out the same on those four items?

14 A. Yes, sir.

15 Q. And how many other tests can you run -- or have
 16 you run all the tests you can to determine what outcome
 17 you have with regard to all the evidence that's
 18 submitted to you? Are there any other tests that you
 19 would have done that could have gotten you any more
 20 specific information?

21 A. Only if I had the firearm.

22 Q. Now you said that you do the comparison through
 23 a comparison microscope?

24 A. That's correct.

25 Q. You take photographs through the microscope to

120 A. Magazine markings were not part of the initial
 1 examination of those cartridge cases against one
 2 another.

3 Q. Okay. The goal?

4 A. The goal in that examination was to determine
 5 if they were fired from the same firearm. Magazine
 6 marks are not produced during firing and, therefore,
 7 would not be an appropriate marking to use for that type
 8 of examination.

9 Q. When are those marks actually produced on the
 10 cartridge cases?

11 A. The magazine marks?

12 Q. Yes.

13 A. Those would be produced, as I indicated, during
 14 the time that a cartridge is stripped from the magazine
 15 and is being chambered into the chambered firearm.

16 Q. It doesn't occur when you're putting it into
 17 the magazine; it's when it's being put into the
 18 chamber --

19 A. Yes.

20 Q. -- from the magazine?

21 A. That's correct.

22 Q. What other type of -- maybe marking is the word
 23 I'm looking for. Those are the kind of markings you
 24 look for to compare, right?

122 see what the two comparisons look like?

1 A. No, sir, the scope that I have utilized or am
 2 utilizing does not have photographic capability.

3 Q. So you're looking at' this with your eyepiece,
 4 going through the microscope, making notes, and then
 5 reaching conclusions as to whether or not you find
 6 sufficient characteristics. Did you say that they were
 7 the same or similar?

8 A. That's correct, sir.

9 Q. And the only ones that can be positively
 10 identified were No. 79 and No. 80?

11 A. With respect to the fired bullets, yes, sir.

12 Q. I'm sorry, 90. Thank you, Mr. Baldwin.

13 MR. HILL: I have no other questions,
 14 Judge.

15 MR. MCCLELLAN: Just a couple of other
 16 things, if I might.

17 REDIRECT EXAMINATION

18 BY MR. MCCLELLAN:

19 Q. You could have -- so if you had ten firearms
 20 that are made of the same type -- that is a Beretta, I
 21 guess, right?

22 A. That's correct, sir.

23 Q. So let's say you had ten Berettas made in
 24 sequence. You fired each of the ten Berettas. Are you

25

123 1 going to be able to tell whether a bullet came from each
 2 of those ten?

3 A. Yes, you would.

4 Q. And that's because of why?

5 A. During the rifling process, each of those ten
 6 firearms, the ten theoretical firearms, would have a
 7 unique set of flaws on the interior surface of the
 8 barrel that result from the actual cutting or removing
 9 of the metal that's done during the rifling process; and
 10 those imperfections would evidence themselves on the
 11 surface of the bullet as striated markings, and you
 12 would have a pattern of striated markings that would be
 13 unique to that firearm.

14 Q. Does that also hold true where magazine marks
 15 that are made -- in other words, whenever the magazine
 16 is made, it's made by tools much like whenever the
 17 barrel of a gun is made with the magazine marks that are
 18 left? If you had the magazine -- I would expect if you
 19 had ten magazines, would you be able to then cycle
 20 throughout -- if that's a proper terminology -- rounds
 21 from ten different magazines, ten different weapons, and
 22 determine whether or not which was cycled through which
 23 firearm?

24 A. Theoretically, it could be done. It would,
 25 again, depend on how many markings were being produced

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1 scene where it was a full clip, but whenever the person
 2 who first examined the firearm pulled back the cartridge
 3 and found there were no -- there was not a live round in
 4 there, would that firearm be able to be fired, having
 5 not had live rounds in the barrel? Would that firearm
 6 be in a ready to be fired position?

7 A. I'm afraid I got lost in the explanation. In
 8 order for that firearm to be in a condition for firing,
 9 there must be a cartridge chambered.

10 Q. All right. If there is a cartridge chambered
 11 and when you pull the gun back in a locked position -- I
 12 guess I'm not going to be able to do that -- but if you
 13 pull the gun back in a locked position -- if you have a
 14 firearm and there is -- it's loaded and there is one in
 15 the chamber, and instead of firing the firearm, you pull
 16 the slide back as if you're thinking about there is not
 17 one I need to chamber, and what's going to happen to the
 18 live rounds that's in the chamber?

19 A. That unfired cartridge should be extracted from
 20 the chamber and ejected from the firearm.

21 Q. Okay.

22 A. And there was a magazine in position with
 23 loaded cartridges still in the firearm. The forward
 24 motion of the slide would chamber the next cartridge
 25 from the magazine and should leave the firearm in a

124 1 by the lips of the magazine as to whether or not you
 2 would have enough markings to make that type of
 3 determination.

4 Q. Okay. But were there sufficient markings on
 5 State's Exhibit 89, a cartridge, and State's Exhibit 27,
 6 cartridge case, for you to make an identification that
 7 they were from the same magazine?

8 A. In my opinion, yes, sir.

9 Q. If a gun has a magazine, like you said, with a
 10 loaded clip and a round has not been cycled into the
 11 chamber -- let's say it's in this position, and I
 12 assume -- I assume you could put the clip in it when
 13 it's in a closed position like this, right?

14 A. Yes, sir, you can.

15 Q. And then if you had it in that position, if you
 16 pulled the trigger, what's going to happen?

17 A. If you did not chamber a cartridge, the hammer
 18 would fall; but there would be no cartridge for the
 19 firing pin to detonate.

20 Q. So if there is not one in the chamber, you put
 21 the clip in. And in order for it to fire, you have to
 22 bring it back and cycle a round into the chamber; is
 23 that correct?

24 A. That's correct, sir.

25 Q. If you found a firearm, hypothetically, at a

126

1 condition for firing.

2 Q. Okay. Have you also known -- well, let's do
 3 this: When you fire a semiautomatic such as the 9
 4 millimeter Beretta that's there, when you fire the gun,
 5 what happens to the cartridge case that is in the
 6 chamber at the time you pull the trigger?

7 A. The cartridge that is in the chamber at the
 8 time that the trigger is pulled, that cartridge will be
 9 detonated; and that would force the bullet down the
 10 barrel, and the pressure generated by the detonation of
 11 the cartridge would also force the slide to the rear.
 12 And that would extract the fired cartridge case, and
 13 also eject the fired cartridge case from the firearm.
 14 That would also re-cock the action of the firearm, and
 15 the forward motion of the slide would chamber the next
 16 round and leave it in a ready-to-fire condition.

17 Q. Are there firearms that when you fire a gun, as
 18 opposed to the cartridge being ejected, it might jam in
 19 the gun? Have you encountered that situation before?

20 A. Yes, that's not an uncommon situation in
 21 semiautomatic pistols.

22 Q. Okay. The -- State's Exhibit No. 91 and
 23 State's Exhibit No. 90 are fired bullets that you
 24 examined; is that correct?

25 A. Yes, sir.

127 Q. Okay. And did they come from a firearm?
 1 A. Yes, sir, they did.
 2 Q. And is a firearm a deadly weapon?
 3 A. Yes, sir.
 4 MR. MCCLELLAN: At this time, Your Honor,
 5 the State would offer into evidence State's Exhibit 96,
 6 the chart.
 7 MR. HILL: I have no problem, Judge.
 8 THE COURT: State's 96 is admitted.
 9 MR. MCCLELLAN: I'll pass the witness,
 10 Your Honor.
 11 MR. HILL: May I just have a moment to
 12 look at the chart?
 13 THE COURT: Yes.
 14 MR. HILL: I have no further questions,
 15 Judge. Thank you.
 16 THE COURT: You may stand down.
 17 Would you approach, please?
 18 (Off-the-record discussion.)
 19 MR. MCCLELLAN: State would offer into
 20 evidence State's Exhibit 38, which would also have a
 21 clip.
 22 THE COURT: 38 will include the clip,
 23 correct?
 24 MR. MCCLELLAN: Yes.
 25

129 1 of Mary Carmouche by shooting Mary Carmouche with a
 2 deadly weapon, namely, a firearm.
 3 For those reasons, we would ask the Court
 4 to instruct the jury to find the defendant not guilty.
 5 THE COURT: It's denied.
 6 MR. HILL: May I have just a moment?
 7 (Jury is brought in and seated.)
 8 ROGER RUFFCORN,
 9 having been first duly sworn, testified as follows:
 10 DIRECT EXAMINATION
 11 BY MR. HILL:
 12 Q. Would you please state your name for the
 13 members of the jury?
 14 A. My name is Roger Ruffcorn.
 15 Q. Where do you live, sir?
 16 A. I live in Houston, Texas.
 17 Q. How are you employed?
 18 A. I'm employed by Yellow Cab. I'm the customer
 19 service and driver services manager.
 20 Q. All right. Would you tell the members of the
 21 jury whether or not you ever actually drove a cab at one
 22 point?
 23 A. Yes, I did. I drove a cab from 1992 to 1994.
 24 Q. What type of work do you do now at Yellow Cab?
 25 What are your responsibilities?

128 1 THE COURT: Any objection?
 2 MR. HILL: No objection.
 3 THE COURT: 38 is admitted, including the
 4 clip. What says the State?
 5 MR. MCCLELLAN: Your Honor, the State of
 6 Texas rests.
 7 THE COURT: What says the defense?
 8 MR. HILL: May we take up a matter?
 9 THE COURT: You may.
 10 All right, ladies and gentlemen, if you
 11 would, please go back in the jury room.
 12 (Outside jury's presence:)
 13 MR. HILL: Your Honor, at this time, in
 14 Cause Number 800112, styled State of Texas versus
 15 Charles Mamou, Jr., on behalf of Mr. Mamou, we would
 16 make a motion for instructed verdict of not guilty. We
 17 don't believe that the evidence establishes, as alleged
 18 in the indictment, that the defendant on trial is
 19 responsible for having committed the offense as alleged.
 20 More specifically, I don't believe there
 21 was any evidence, credible evidence, in the record to
 22 show that any acts attributed to Mr. Mamou were done
 23 while in the course of committing or attempting to
 24 commit kidnapping of Mary Carmouche or that the
 25 defendant, Charles Mamou, intentionally caused the death

130 1 A. My responsibilities include keeping records on
 2 all the drivers, handling all the complaints that come
 3 in concerning cab rides, lost and found articles, all
 4 the drivers' complaints about things. I also interview
 5 all the new prospective drivers that come in, and also
 6 teach the training class on a backup basis.
 7 Q. Okay. Did I contact you and ask you to see
 8 whether or not you had any records from the Yellow Cab
 9 company reflecting the early morning hours of December
 10 7th of 1998?
 11 A. Yes, you did.
 12 Q. And did I ask you, specifically, to look at an
 13 address of 10800 Fondren, Number 1402?
 14 A. Yes, you did.
 15 Q. Did you conduct the search of those records to
 16 see if you had any information relating to that address
 17 and date?
 18 A. I did perform a search, yes.
 19 Q. Did you bring that record with you today in
 20 court?
 21 A. I have it with me.
 22 MR. HILL: May I approach the witness,
 23 Your Honor?
 24 THE COURT: Yes.
 25 Q. (BY MR. HILL) Mr. Ruffcorn, I'm going to put

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 1 an exhibit on here -- it's going to be marked
 2 Defendant's Exhibit No. 9 -- and ask you if you can
 3 identify that document for me, please?

4 A. I can. These are -- that is a report that we
 5 can generate from any given day up to a year in the
 6 past. We can do it by addresses, or we can do it by
 7 zones. We can perform the search by cab number, or by
 8 an I.D. number, or by an address.

9 Q. The records that you brought to court that are
 10 reflected in Defense Exhibit No. 9, are they made at or
 11 near the time of the event they are prepared?

12 A. Are you --

13 Q. In other words, the information that's
 14 contained on Defense Exhibit No. 9, when that
 15 information first comes in, is that when the document
 16 that supports that is generated?

17 A. No, we generate these documents on demand.

18 Q. Okay. But the information that's contained in
 19 Defense Exhibit No. 9, that information is made at or
 20 near the time of the events that are depicted?

21 A. Right, it is automatically recorded on the hard
 22 drive in the computer dispatch system and transferred to
 23 tape after thirty days.

24 Q. Is that information transmitted by a person
 25 with knowledge, personal knowledge, of the information

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 1 contained thereon?

2 A. Do you mean --

3 Q. The person -- that dispatcher that's giving the
 4 information, is he or she the one that's actually
 5 preparing the records?

6 A. Actually, when a person calls in for a taxi
 7 cab, what we call a call taker enters the information
 8 into the computer and hits a button that sends it to the
 9 first available driver in the area. And if nothing goes
 10 awry, the only two people that ever know about the call
 11 are the driver -- well, actually the driver and the call
 12 taker and the person that called the cab.

13 Q. Then are the records depicted in State's
 14 Exhibit No. 9 kept in the regular course of the Yellow
 15 Cab business?

16 A. Yes, they are.

17 MR. HILL: Your Honor, after tendering
 18 them to the State, we would move to introduce
 19 Defendant's Exhibit No. 9.

20 MR. MCCLELLAN: May I take the witness on
 21 voir dire, Your Honor?

22 THE COURT: You may.

133
 1 VOIR DIRE EXAMINATION

2 BY MR. MCCLELLAN:

3 Q. There is a name that's listed -- there is a
 4 bunch of names listed on State's Exhibit No. 9 where
 5 it's -- it gives a name caller, and then it has a name.
 6 When a person says a name, is there any way of
 7 determining whether or not the person is giving their
 8 correct name?

9 A. No, there is not.

10 Q. And the only name that you recorded is just one
 11 name? I mean, there is not a first and last name?

12 A. Not usually, but there is sometimes.

13 Q. Now when --

14 MR. MCCLELLAN: May I approach the
 15 witness, Your Honor?

16 THE COURT: Yes.

17 Q. (BY MR. MCCLELLAN) Without saying those
 18 words, what are the -- what would that determination
 19 mean? I mean, what would things -- there is a deal
 20 here; it says GC. What does GC stand for?

21 A. That would be the gate code to get into the
 22 apartments, and at the big box -- I'm sorry. That would
 23 be where the customer supposedly would be.

24 Q. So, somebody's going to be at a big box?

25 A. That could be the mailbox system or whatever.

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 1 MR. MCCLELLAN: I'd object, Your Honor, to
 2 Defense Exhibit No. 9 on the grounds that it contains
 3 not only material unrelated to this case; but also,
 4 someone has evidently marked certain things, and I don't
 5 know what those relate to. So --

6 MR. HILL: We can remove all the other
 7 matters and only introduce the one with --
 8 (Off-the-record discussion.)

9 MR. MCCLELLAN: I would also object to
 10 relevance.

11 THE COURT: It's overruled. Defense 9 is
 12 admitted.

13 DIRECT EXAMINATION CONTINUED

14 BY MR. HILL:

15 Q. Let me hand back to you Defendant's Exhibit No.
 16 9. With regard to the call that is reflected at the
 17 bottom of that sheet, again, the location where the call
 18 was made to the cab driver that went out to a location,
 19 what location did he go to?

20 A. He went to 10800 Fondren.

21 Q. Was there a particular apartment unit number?

22 A. He was given Apartment Number 1402.

23 Q. And the name of the caller?

24 A. The caller said his name was Shawn.

25 Q. Does your record reflect whether or not the

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1 DIRECT EXAMINATION

2 BY MR. HILL:

3 Q. What time is it reflected that the call came in
 4 and the driver went there, and what time did the driver
 5 turn off his meter?

6 A. We received a call at 3:59 a.m.; and it was
 7 dispatched at the same time, 3:59. And the meter was
 8 turned on 4:04 a.m. and turned off 4:09 a.m.

9

Q. Is the driver that's reflected in Defendant's
 10 Exhibit No. 89, is he still employed with Yellow Cab?

11

A. He never was employed. All of our Yellow Cab
 12 drivers are independent contractors, not employees of
 13 the company; and this particular driver is no longer an
 14 active driver with us.

15

Q. Okay. Thank you, sir.

16

MR. HILL: I have no further questions.

17

RECORD-EXAMINATION

18

BY MR. MCCLELLAN:

19

Q. The record does not reflect, does it, where the
 20 address to which the person was taken, if there was, in
 21 fact, a person taken?

22

A. That's correct, we do not keep that
 23 information.

24

Q. So there is no way -- you have no records that
 25 would indicate where a person was delivered to if a

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1 right to the point with you, if I may. I want to ask
 2 you if you know certain people. Do you know a person by
 3 the name of Terrence Dodson?

4 A. I do.

5 Q. He's your cousin?

6 A. He's my first cousin.

7 Q. Do you know a person by the name of Shawn
 8 England?

9 A. I do.

10 Q. Who is that to you?

11 A. He's just a business associate.

12 Q. Do you know a person by the name of Timmy
 13 Thomas?

14 A. I do.

15 Q. Who is Timmy Thomas?

16 A. He was employed by me.

17 Q. Where does Timmy Thomas live?

18 A. In Sunset, Louisiana.

19 Q. Where, in relation to where you are, to your
 20 mother's house, does Timmy Thomas live?

21 A. Six houses down from my mother's house.

22 Q. Did you know a person by the name -- or do you
 23 know a person by the name of Dion Holley?

24 A. I do.

25 Q. Do you know a person by the name of Mary

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person had been picked up?

1

A. Right. That would be in the driver's records,
 3 his own records.

4

MR. MCCLELLAN: Pass the witness.

5

MR. HILL: No further questions of this
 6 witness.

7

THE COURT: You may stand down.

8

MR. HILL: Call Charles Mamou.

9

May I proceed, Your Honor?

10

THE COURT: Please.

11

CHARLES HAROLD MAMOU, JR.,
 12 having been first duly sworn, testified as follows:

13

DIRECT EXAMINATION

14

BY MR. HILL:

15

Q. Would you please tell the members of the jury
 16 what your name is?

17

A. My name is Charles Harold Mamou, Jr.

18

Q. How old are you, Mr. Mamou?

19

A. Twenty-four years old.

20

Q. I want to ask you, where did you grow up?

21

A. Sunset, Louisiana.

22

Q. Where is that in relation to Houston, Texas?

23

A. It's about three hundred miles, about
 24 three-and-a-half hours from Sunset, Louisiana.

25

Q. Heard a lot of testimony. I'm going to get

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Carmouche?

2 A. I do.

3 Q. Did you know a person by the name of
 4 Mr. Gibson, Terrence Gibson?

5 A. I sure do.

6 Q. These are all people -- and did you know
 7 Mr. Samuel Bug Johnson?

8 A. Yes, I do.

9 Q. Howard and Robin Scott?

10 A. Yes, I do.

11 Q. Were these all individuals that you knew and
 12 met within the first week of December, 1998?

13 A. Yes, they were.

14 Q. Here in Houston, Texas?

15 A. Yes.

16 Q. I'm sure there will be questions asked of you
 17 regarding the circumstances that took place out on
 18 Lantern Point Drive, but I want to bring you right to
 19 the main point of this case. I want you to tell the
 20 members of the jury what took place when you got into
 21 the blue Lexus out there on Lantern Point that we've
 22 heard so much about.

23 A. I jumped into the blue Lexus, and I was driving
 24 in a lower position.

25 THE DEFENDANT: Your Honor, may I show the

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1 jury?

2 THE COURT: If he asks for you to.

3 Q. (BY MR. HILL) You can do it from there. Just
4 try to show them how you were driving.5 A. I jumped into a vehicle; and I was driving like
6 this, stomping it, just mashing. I came to a stop sign,
7 I believe.8 Q. Let me ask you this: At the time that you took
9 off in the blue Lexus, where was Bug Johnson in the red
10 car?

11 A. He had left me.

12 Q. As you're driving off, do you become aware of
13 the fact there is somebody in the vehicle with you?

14 A. I do.

15 Q. And when does that occur?

16 A. When I came to a stop at the stop sign.

17 Q. What occurred?

18 A. A head raised up from the back of the -- you
19 know, the back -- in the back of the car; and I seen the
20 girl, Miss Mary Carmouche, in the rearview mirror.21 Q. Did you say anything to her, or did she say
22 anything to you?

23 A. She spoke to me first.

24 Q. All right. Did you say anything to her in
25 response?

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1 A. Yes, I did.

2 Q. What did you say to her?

3 A. I told her that I didn't kill anybody.

4 Q. Did you drive further at that point?

5 A. I took a left when I came to my stop sign.

6 Q. At the point in time you became aware of the
7 fact that Mary Carmouche was in the car, did you
8 indicate to her she had to stay in the car?

9 A. No, I did not.

10 Q. Was there a point in time where you came to any
11 location where you said anything else to her?12 A. I came to a caution -- not a caution light, a
13 red light. And I remember the street where I was at.

14 Q. At Main Street?

15 A. And they had a Burger King on the right side
16 and a club that I would go to on the left.17 Q. What, if anything, did you say to her at that
18 location?

19 A. I told her to get out the car.

20 Q. Did she respond to you?

21 A. Yes, she did.

22 Q. As a result of her response to you, did she get
23 out of the car?

24 A. No, she did not.

25 Q. At that point, did you believe that she was not

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1 familiar with that area?

2 MR. MCCLELLAN: I object to leading, and
3 also object to speculation.

4 THE COURT: Sustained.

5 Q. (BY MR. HILL) After she said something to you,
6 after you told her to get out of the car, where did you
7 go?8 A. The light turned green. I turned a left on
9 Main Street.

10 Q. Where did you go from there?

11 A. I'm driving. You know, I'm confused right now,
12 just driving. And there comes a car behind me, flashing
13 the bright lights on me.

14 Q. And did you recognize what car that was?

15 A. No, I did not.

16 Q. What, if anything, did you do in response to
17 the car flashing your their lights at you?18 A. I thought it was the police, and then I noticed
19 the vehicle came into the other driver's lane and was
20 coming fast on me. And my first thought was there was
21 some more guys that was coming -- you know what I'm
22 saying? -- for the incident. And that's when Bug
23 Johnson pulled up on the side of me.24 Q. Bug Johnson is the guy that's driving in the
25 red or dark orange Concord or Intrepid?

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1 A. Yes, he is.

2 Q. What do you do at that point?

3 A. He raised his window down, and he was driving
4 with one hand. He had the cell phone in his other hand,
5 and he was talking to somebody. And he waved and
6 motioned, told me to follow him.

7 Q. Did you do that?

8 A. I did.

9 Q. As this is taking place, is Miss Carmouche
10 saying anything in the backseat?11 A. Oh, she's not in the backseat. She's in the
12 front seat on the passenger side.13 Q. All right. Are you -- are you doing anything
14 to threaten her?

15 A. Not at all.

16 Q. Where do you go after you see Bug on your left
17 with a cell phone and he's motioning to you?

18 A. Fondren Court Apartments.

19 Q. When you get to Fondren Court Apartments --
20 whose apartment was he going to?

21 A. Howard Scott.

22 Q. Is that the location that Mr. Scott testified
23 yesterday he lived at, 10800 Fondren?

24 A. It is.

25 Q. Does that sound right?

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1 A. It is.

2 Q. Where did he go?

3 A. This was a dumpster -- Bug drove -- I was
4 following Bug, and Bug pressed the code. He knew the
5 code to get into the gate, because you had to have a
6 code. And we followed each other around the apartment
7 complex; and there was a dumpster, a trash can, and
8 that's where I parked the vehicle at.

9 Q. All right. What did you do when you parked the
10 vehicle there?

11 A. I exited out the car, and I offered Miss
12 Carmouche to get out the vehicle.

13 Q. Did she get out of the vehicle?

14 A. Yes, she did.

15 Q. Was there anybody there? Did anybody else
16 come there other than Bug Johnson?

17 A. Bug Johnson and Shawn England approached the
18 vehicle.

19 Q. This is the Shawn England that you earlier
20 testified that you know?

21 A. Yes, it is.

22 Q. Can you describe Shawn England for us, please?

23 A. Dark male, about 200 pounds, maybe, four or
24 five golds in his mouth.

25 Q. When you say four or five golds in his mouth,

149

1 Q. When you go inside with Shawn, who's inside the
2 house -- in the apartment, rather?

3 A. Howard Scott, his wife, Robin, and their little
4 girl.

5 Q. How long do you stay inside the apartment
6 there?

7 A. Ten to fifteen minutes, not long.

8 Q. What happens -- or is there anything that
9 happens that causes you to walk out of the apartment and
10 go back into the parking area?

11 A. Howard Scott went in his bedroom where his wife
12 was, and he came out with three pairs of socks; and we
13 proceeded back to outside.

14 Q. And once outside, what did you do?

15 A. What did I do?

16 Q. What did you see Howard Scott do?

17 A. He gave a pair of socks to Shawn England. He
18 gave a pair of socks to Samuel Johnson.

19 Q. What did they do?

20 A. They proceeded to search the Lexus.

21 Q. When you say they proceeded to search the
22 Lexus, what does that mean?

23 A. Shawn raised the hood of the vehicle, which the
24 hood was already halfway popped open. Bug continued to
25 talk and have a conversation with Miss Carmouche at the

148

1 you mean gold teeth?

2 A. Gold teeth.

3 Q. And did you all stand around at the car, or did
4 Miss Carmouche run off?

5 A. No, she didn't.

6 Q. So there was Shawn England, Samuel Bug Johnson,
7 you, Mary Carmouche. Did anybody else come there at
8 that time?

9 A. Not at that time.

10 Q. What did you do at that time?

11 A. At that time I was crying, you know; and Shawn
12 pulled me on the side and he told me, Don't worry about
13 it. You know what I'm saying? Those guys deserve --
14 they got what they deserved, but I didn't see it that
15 way.

16 Q. So what did you do after Shawn pulled you to
17 the side and made that statement to you? Did you go
18 somewhere?

19 A. We went inside the apartment complex.

20 Q. Who is we?

21 A. Me and Shawn only.

22 Q. So Bug Johnson is outside?

23 A. With Miss Carmouche.

24 Q. Where is the car at that point?

25 A. Still by the dumpster.

150

1 back of the car, and Howard Scott was inside of the
2 vehicle.

3 Q. Were they looking for dope?

4 A. Yes, they was.

5 Q. And how long does that take?

6 A. Maybe about thirty minutes.

7 Q. What happens after everybody is standing there,
8 and these other guys are searching through the vehicle?
9 What's Miss Carmouche doing?

10 A. She's having a conversation with, you know,
11 with Bug Johnson at the time.

12 Q. Okay. At some point does the search of the
13 vehicle end?

14 A. Another party arrived at that point.

15 Q. Who is that other party?

16 A. I met him a few times. I just know him by his
17 name, Skin or Kevin. I found out his name was Kevin.

18 Q. How did he get there?

19 A. On a bicycle.

20 Q. And how did he participate with the others?

21 MR. McCLELLAN: Object to leading.

22 THE COURT: Sustained.

23 Q. (BY MR. HILL) Okay. What did this individual
24 do?

25 A. He didn't do nothing. He just stood around.

151 Q. What happens after everybody is looking through
 1 the car?
 2 A. Shawn got upset. He pulled me on the side.
 3 Q. Don't say what he said.
 4 A. Okay.
 5 Q. You took him to the side, and what did you do?
 6 A. My emotions was weird at this moment. You
 7 know, I didn't really do anything.
 8 Q. You just kind of stood there?
 9 A. He was talking to me. You know, you don't want
 10 me to say what he said?
 11 Q. You're not allowed to say what he said. What
 12 did you do?
 13 A. At that point me, Shawn, and Howard walked back
 14 to the house, to his apartment.
 15 Q. What do you do when you're inside the house?
 16 A. They made me take my clothes off.
 17 Q. And do what?
 18 A. They threw them in the washer. They gave me
 19 some more clothes. They told me to take a shower.
 20 Q. Did you do that?
 21 A. I did not take a shower, but I proceeded to the
 22 bathroom for a little while.
 23 Q. All right. And at some point, do you come out
 24 of the bathroom and put some clothes on?
 25

152 A. Yes, ma'am (sic).
 1 Q. Who had your clothes?
 2 A. They took -- well, Howard took the clothes that
 3 I had; and he put them in the washing machine, and he
 4 gave me a pair of his clothes.
 5 Q. Which was what? Do you recall what kind of
 6 clothes that you wore, that he gave you?
 7 A. Black T-shirt, Nike shirt, and maybe some
 8 shorts.
 9 Q. So, then what happened at that point?
 10 A. Shawn had a suggestion that we -- well, at that
 11 point we just stayed around talking.
 12 Q. Okay. Who is we, when you say we just sat
 13 around talking?
 14 A. Me, Shawn, and Howard.
 15 Q. How long did y'all sit around for?
 16 A. About thirty more minutes, thirty or forty
 17 minutes.
 18 Q. So where is Bug? Where is Miss Carmouche?
 19 And where is this guy, Skin or Ken, or whatever his name
 20 is?
 21 A. They had left.
 22 Q. How do you know they left?
 23 A. Because Howard told me so.
 24 Q. What did they leave in?
 25

153 MR. MCCLELLAN: I object, unless he knows.
 1 THE COURT: Sustained.
 2 Q. (BY MR. HILL) Did you ever go outside and see
 3 whether or not the vehicles that had been there before
 4 were still there?
 5 A. I did go outside.
 6 Q. What did you see?
 7 A. The Lexus was still parked there.
 8 Q. Where was it parked?
 9 A. Still by the dumpster this time.
 10 Q. Okay. At some point after Bug, Skin, Miss
 11 Carmouche leave, do you go outside and go anywhere?
 12 A. Yes, I do.
 13 Q. And could you tell the members of the jury what
 14 you did?
 15 A. I went outside. I left the apartment complex,
 16 and there is a Burger King right next to the apartment
 17 complex. I went over there, and I tried to use the
 18 phone to page a girlfriend of mine that was living in
 19 Houston.
 20 Q. What did you do after attempting to contact the
 21 girl that lived here in Houston?
 22 A. The phone that I was using, that I was trying,
 23 could not accept incoming calls; so I just began to just
 24 walk and think.
 25

154 Q. Okay. And at some point -- how long are you
 1 walking for?
 2 A. At some point, I only walked for an hour.
 3 Q. And do you eventually get back to the Fondren
 4 Court --
 5 MR. MCCLELLAN: Object to leading.
 6 THE COURT: Sustained.
 7 Q. (BY MR. HILL) Where do you go after walking
 8 around?
 9 A. I go back to the apartment complex.
 10 Q. Where exactly do you go to?
 11 A. Howard's apartment complex here, and I was over
 12 here.
 13 Q. What, if anything, did you observe?
 14 A. I observed Bug coming back, him and Skin,
 15 Kevin. Bug went into the apartment complex; and he came
 16 out and stayed there for about five minutes, not long at
 17 all. He came back, jumped in his car. Him and Kevin
 18 left again.
 19 Q. Do you see Shawn England at all?
 20 A. Not at this moment, I do not.
 21 Q. All right. You stay away from the apartment at
 22 that point?
 23 A. Yes, I do.
 24 Q. For how long?
 25

1 A. Roughly, about another hour may have passed.
2 Q. At some point, do you see Shawn?
3 A. Well, not at this point. I seen Bug and Kevin
4 again. They came back to the apartment complex.
5 Q. In which car?
6 A. Bug Johnson's car.
7 Q. Do you see where they go?
8 A. Kevin got out of the vehicle this time, and he
9 jumped back on his bicycle.
10 Q. And did what?
11 A. He left.
12 Q. Then what happened?
13 A. And Bug left.
14 Q. At that point, do you go back to the apartment?
15 A. No. At that point --
16 Q. What happens at that point?
17 A. At that point there, five minutes after that a
18 Yellow Cab came. It was a Yellow Cab van.
19 Q. Then what do you see, if anything?
20 A. I seen Shawn England get inside the Yellow Cab.
21 Q. After you saw Shawn get into the Yellow Cab,
22 what did you do?
23 A. Counted to 100, because I was trying to build
24 my nerves up to go to the apartment complex.
25 Q. Did you?

156 A. Yeah, after I counted to about 300, I went
1 back.
2 Q. And who was there at the apartments when you
3 went back there?
4 A. It was only Howard, his wife, and his daughter.
5 Q. And did you spend the night there?
6 A. Yes, I did.
7 Q. The next morning would have been Monday
8 morning, correct?
9 A. Yes, it is.
10 Q. Were you still at Howard's?
11 A. Yes, I was.
12 Q. You've heard the testimony from Terrence Dodson
13 and from Anthony Trail?
14 A. That's correct.
15 Q. Is that how -- how did that happen? Were you
16 with them? Did you talk to them?
17 A. Me, Terrence Dodson, and Anthony Trail got
18 together about 9:00 that morning.
19 Q. Okay.
20 A. I called Anthony Trail to shoot some
21 basketball. I wanted him to come pick me up, but he did
22 not know where I was. So I say, Go pick up Terrence --
23 Dodson, Tator, because he had been to the apartment
24 complex.

1 Q. Did they do that?
2 A: Yes, they did.
3 Q. Where did you guys go?
4 A. We dropped Terrence Dodson off, my cousin. And
5 we proceeded to his house, to Anthony Trail's house.
6 Q. How long did you stay there?
7 A. Till about 12:00 o'clock.
8 Q. What did you do after that?
9 A. Then we went over to Stephanie Mamou, my
10 cousin's apartment, where Tator lived.
11 Q. And after that, where did you go?
12 A. Then after that, Anthony Trail dropped me back.
13 Well, this time he went to the apartment complex where
14 Howard Scott lived and dropped me off.
15 Q. And after you were dropped off, how did you get
16 back to Louisiana?
17 A. Well, I did not leave that day.
18 Q. All right. Where did you spend that day, or
19 what did you do the rest of the time here before leaving
20 to go to Louisiana?
21 A. Howard's -- when Anthony Trail dropped me back,
22 this girl Howard messes with named Kiki, she comes over
23 there. She's a stripper; and she came picked us up from
24 the Burger King again, because he would never let her
25 come to the house. And we went to Pasadena.

158
1 Q. And where did you go in Pasadena?
2 A. Howard's girlfriend, Kiki, had to work there;
3 and we just stayed and drunk.
4 Q. That was all day Monday?
5 A. No, not all day. We returned back to the
6 apartment complex around 7:00.
7 Q. And then what did you do?
8 A. We went back over there to Howard's house. And
9 his wife, Robin, told me I received a phone call from a
10 friend of mine named Roland.
11 Q. So did you spend Monday evening here in
12 Houston?
13 A. Yes, I did.
14 Q. When do you eventually get back to Louisiana?
15 A. Tuesday, around 6:30.
16 Q. How do you get there?
17 A. On a bus.
18 Q. Who took you to the bus station?
19 A. Anthony Trail.
20 MR. HILL: May I have just a moment?
21 We'll pass the witness..
22 CROSS-EXAMINATION
23 BY MR. MCCLELLAN:
24 Q. Mr. Mamou?
25 A. Yes, sir, Mr. Lyn.

159 Q. We've never talked before, right?
 1 A. We sure haven't.
 2 Q. I notice that you didn't say you knew Kevin
 3 Walter. Do you know Kevin Walter?
 4 A. I was never asked if I knew Kevin Walter.
 5 Q. But my question was, do you know Kevin Walter?
 6 A. Yes, I do, sir.
 7 Q. We just skipped him on the list of people?
 8 MR. HILL: I forgot to ask. I'm sorry.
 9 MR. MCCLELLAN: That's all right.
 10 Q. (BY MR. MCCLELLAN) Now how long have you known
 11 Mary Carmouche?
 12 A. I only known Miss Mary Carmouche for a couple
 13 of hours.
 14 Q. How long had you known Dion Holley?
 15 A. He and I met physically Sunday; but we had
 16 spoke on December 4th, when he came and told me they
 17 were -- he had told me his name was Freaky Deaky.
 18 Q. How long had you known Terrence Gibson?
 19 A. Only a few hours.
 20 Q. And so you had never met Mary Carmouche, or
 21 Terrence Gibson, or even Kevin Walter before December
 22 the -- December -- you know, you knew Kevin Walter,
 23 right?
 24 A. Yes, I did.

161 Q. Can you name those people?
 1 A. I sure can --
 2 Q. Okay.
 3 A. -- if they would be present.
 4 Q. You can't name them if they're not present?
 5 A. I could -- sure, I sure can.
 6 Q. Okay.
 7 A. Cornel Landry.
 8 Q. Cornel who?
 9 A. Cornel Landry.
 10 Q. Where does Cornel Landry live?
 11 A. In Sunset, Louisiana.
 12 Q. Okay.
 13 A. Timmy Melancon out of Lafayette, Louisiana.
 14 Q. Mr. Melancon, was he the Melancon that was down
 15 here on Labor Day?
 16 A. No. Timmy Melancon, different relation.
 17 MR. HILL: Judge, may we approach the
 18 bench?
 19 (Off-the-record discussion.)
 20 (At the bench:)
 21 MR. HILL: I have filed a motion in limine
 22 regarding the extraneous murder from Labor Day. And
 23 he's trying to back door into asking him about Labor Day
 24 through cross-examination, which I don't think is
 25

160 Q. Because Kevin came down whenever you met him
 1 over at the Shoney's, whenever you came down?
 2 A. Well, me and Kevin been there, been associating
 3 before this Shoney's ordeal.
 4 Q. You mentioned that Timmy Thomas was employed?
 5 A. Yes, he was.
 6 Q. So he was one of your drug boys; because you're
 7 a drug dealer, right?
 8 A. I was, but I'm --
 9 Q. Well, you're not a drug dealer now, but you've
 10 been a drug dealer for how long?
 11 A. All my life.
 12 Q. Okay. And Timmy Thomas is an employee as part
 13 of your drug business?
 14 A. He was an employee of mine.
 15 Q. What kind of empire do you have? How many
 16 people you got working for you? Kind of varies from day
 17 to day?
 18 A. Not really.
 19 Q. Okay. Well, how many people you got? Too many
 20 to count?
 21 A. No, sir, not at all. You can say an estimate
 22 of five.
 23 Q. Five people?
 24 A. Yes.

162 relevant at all.
 1 THE COURT: If he understands that the
 2 motion in limine is still in effect and we have to take
 3 that up outside the presence of the jury. That's not
 4 what we're talking about, is it? Are we talking about
 5 that?
 6 MR. MCCLELLAN: I'm not going into
 7 anything. I'm talking about who people know.
 8 THE COURT: That's all. I understand.
 9 MR. MCCLELLAN: I know what the rules are.
 10 MR. HILL: We'd appreciate it if we don't
 11 have too many side-bars, Judge.
 12 THE COURT: I'd appreciate it, too. I
 13 notice it came from both sides of the table earlier,
 14 though.
 15 (Continuing in the jury's hearing:)
 16 Q. (BY MR. MCCLELLAN) So, you know a Melancon
 17 that lives here in Houston?
 18 A. No, I do not.
 19 Q. You know a guy named Bruiser?
 20 A. No, I do not.
 21 Q. Now you were ready to do a drug deal, right? I
 22 mean, hit a lick, what they call hit a lick?
 23 A. No. It's called purchasing of drugs.
 24 Q. Purchasing of drugs?

163
1 A. Yes.
2 Q. And how many -- what size of transaction were
3 you thinking about purchasing?
4 A. My intentions was to come out here and get a
5 half a kilo.
6 Q. Half a kilo?
7 A. That's right.
8 Q. How much were you planning on paying for a half
9 a kilo?
10 A. I had \$9,000 on me.
11 Q. Nine thousand in cash? Were you planning on
12 paying cash for drugs?
13 A. That's how it works.
14 Q. Okay. Does it also work sometimes when people
15 cut up pieces of paper to look like money and try to do
16 it that way?
17 A. If I may explain that situation.
18 Q. I'm just asking you if it works that way
19 sometimes?
20 A. I don't know.
21 Q. You've never been involved in that?
22 A. No, I'm not saying that. I'm just saying, I
23 don't know what you're trying to ask me.
24 Q. Well, I'm asking you, have you ever heard of
25 situations where people cut up pieces of paper to look

165
1 A. No, I did not meet up with Dion Holley at the
2 time. I met with Kevin Walter.
3 Q. Where did you meet Kevin Walter?
4 A. At the hotel where I was staying, at Shoney's
5 off of 610.
6 Q. I'm talking about December the 6th, 1998, the
7 whole time we have been talking about that time. I want
8 to address that.
9 A. Okay.
10 Q. On December 6th, 1998, did you try to buy drugs
11 from Kevin Walter?
12 A. Yes.
13 Q. Okay. And were you buying half a kilo or a
14 kilo?
15 A. Well, it was his perception that he had showed
16 me a kilo and see if I wanted to purchase it.
17 Q. Okay. And who all was with Mr. Walter?
18 A. At the first contact it was only him and
19 Mr. Dion Holley.
20 Q. And that was at Papa's Barbeque?
21 A. Well --
22 Q. Near Papa's Barbeque?
23 A. That was not the first time we went to the
24 north side area.
25 Q. Talking about December 6th, 1998?

164
1 like money and then try to buy drugs with paper as
2 opposed to --
3 A. No, no, you can't buy drugs with paper.
4 Q. Okay. You can't try to rip people off?
5 A. That's not my field.
6 Q. You're just a businessman?
7 A. Not anymore.
8 Q. I understand. Were a businessman, drug
9 businessman, right?
10 A. When you lead the life of drugs, you know, you
11 get caught up in your own world.
12 Q. The question was, are you a drug businessman?
13 A. No, I'm not.
14 Q. The \$9,000 that you had, you got from working?
15 A. No, I did not.
16 Q. Got from selling drugs?
17 A. Yes, I did.
18 Q. Okay. And you came down here to buy a half a
19 kilo?
20 A. That's right.
21 Q. And so, did you talk with Kevin Walter about
22 buying a half a kilo?
23 A. Yes, I did.
24 Q. Did you meet up with Kevin Walter and Dion
25 Holley?

166
1 A. That was also December 6th, 1998.
2 Q. Where did you go?
3 A. The first time we went to the north side area.
4 I don't know the street, but Kevin Walter had informed
5 us to go there. It was by a Fiesta.
6 Q. On the north side?
7 A. Yes, sir.
8 Q. And you went there -- well, there is a Fiesta
9 right on 45?
10 A. I don't know the streets by name.
11 Q. How did you get there?
12 A. Bug Johnson drove.
13 Q. But it was your deal?
14 A. Yes, it was.
15 Q. It wasn't Bug Johnson's deal?
16 A. Not at all.
17 Q. Bug Johnson a drug dealer?
18 A. I do not know.
19 Q. I mean, your being a drug dealer, you would
20 know who other drug dealers are, would you not?
21 A. Well, looks can fool you sometimes.
22 Q. Okay. But as far as -- you know, Bug Johnson
23 wasn't a drug dealer?
24 A. That's right.
25 Q. Never dealt with -- have you dealt with Kevin

167
1 Walter prior to that time?
2 A. Yes, I have.
3 Q. So he is a drug dealer?
4 A. Well, yes, he is.
5 Q. He is?
6 A. Uh-huh.
7 Q. How many times have you bought from him?
8 A. I have bought between -- before the December
9 6th incident.
10 Q. What dollar amount do you recall?
11 A. Only forty-five hundred, nine and nine, nine
12 ounces and nine ounces.
13 Q. Have you ever bought from Dion Holley before?
14 A. I have never.
15 Q. And when y'all met by the Fiesta, what was the
16 deal? Did he show you some dope?
17 A. No. He stalled us at the Fiesta.
18 Q. Stalled?
19 A. Yes.
20 Q. Wanted to see the money?
21 A. No. There was a pay phone at the Fiesta.
22 Q. Uh-huh.
23 A. And we was talking about cell phones at first,
24 but he rung the pay phone. And we were talking. We
25 just -- with us talking, he said it was going to take

169
1 Q. Did you have a Victoria's Secret bag filled
2 with cut-up pieces of paper?
3 A. At that time we sure did.
4 Q. Why?
5 A. It was not filled with papers, though, at that
6 time.
7 Q. Why would you have a paper bag filled with
8 money -- cut-up pieces of paper?
9 A. Well, Bug Johnson was my cousin. Terrence and
10 Johnson, they confirmed to me, installed in my mind,
11 that it may have been a rip-off.
12 Q. Installed in your mind?
13 A. That's right.
14 Q. That it may have been a rip-off?
15 A. That's correct.
16 Q. Because you know Bug Johnson is a pretty
17 knowledgeable drug dealer?
18 A. No, he's not. He's not even a drug dealer.
19 Q. And he was able to pick it up, but a drug
20 dealer like you wasn't able to pick it up? He had to
21 install it in your mind?
22 A. That's correct, because I had done business
23 with Kevin Walter before.
24 Q. Been fooled by that; is that right?
25 A. We learn from mistakes.

168
1 five minutes. He had to find his cousin here. He had
2 to find his cousin there.
3 Q. Was Dion Holley with him at that time?
4 A. No, he wasn't.
5 Q. So, did y'all split up, or meet again, or what?
6 A. We went to the north side for nothing, so we
7 went back to the south side.
8 Q. Was Terrence Dodson with you?
9 A. Yes, he was.
10 Q. Is Terrence Dodson a drug dealer?
11 A. No, he's not.
12 Q. Just a guy that packs a .25? Is that all or
13 what?
14 A. No. Me and my cousin -- I would use him
15 sometimes so that, you know, people would get
16 intimidated of his size.
17 Q. Okay. Did you use him on December 6th maybe to
18 use some intimidation?
19 A. I did on both ends, because of Bug Johnson, as
20 well.
21 Q. Bug not very intimidating?
22 A. No, it's not that. I just didn't know him.
23 Q. So did y'all end up meeting at the Papa's
24 Barbeque?
25 A. Yes, we did.

170
1 Q. There you go. So you had some pieces of paper.
2 You did the cutting?
3 A. Excuse me?
4 Q. You did the cutting of the paper?
5 A. If I can recall, it was several of us did the
6 cutting.
7 Q. Kind of group effort?
8 A. No, it was not.
9 Q. Wasn't a group effort?
10 A. No.
11 Q. Who all was cutting paper?
12 A. Just me and my cousin, Terrence Dodson.
13 Q. Just so happens the only fingerprints we find
14 is yours?
15 A. On one paper.
16 Q. As luck would have it, right?
17 MR. HILL: Judge, could we avoid so much
18 side-bar from Mr. McClellan?
19 THE COURT: Sustained.
20 MR. HILL: Thank you.
21 Q. (BY MR. MCCLELLAN) So you're saying the first
22 time you met, it wasn't full -- you hadn't done all your
23 cutting yet?
24 A. No. When we meet the first time, we did not
25 use this paper.

171 Q. Second time you had the paper. Thank you. So
 1 the money in the bag was not filled with paper. Did you
 2 put more in it later?
 3
 4 A. No, sir.

5 Q. About the amount of paper that's there now,
 6 would that be the amount that was in there at the time?

7 A. When we met at Papa's, that paper was not in
 8 there.

9 Q. So you didn't have any money cut up?

10 A. The paper was cut up, yes, it was; but it was
 11 not in the bag.

12 Q. Now you didn't walk out with cut-up paper, did
 13 you, and try to --

14 A. Well, I offered to give it to Kevin; and I'm
 15 sure he could have found out it was papers.

16 Q. But you didn't offer it to Kevin?

17 A. Excuse me?

18 Q. You didn't offer it to Kevin?

19 A. I sure did.

20 Q. You offered him cut-up paper?

21 A. No, it was not paper, sir.

22 Q. What did you offer?

23 A. It was my money.

24 Q. Well, I thought you had already decided that it
 25 was going to be a rip-off, so you were going to use

173 1 money." If they have the drugs, I could purchase it.
 2 Q. Right, but why did you need to cut up pieces of
 3 paper?
 4 A. I didn't need that.

5 Q. So why did you and Terrence Dodson cut up
 6 pieces of paper?

7 A. Because, once again, I did it because for when
 8 they suggested it to me, I felt that, okay, well, let's
 9 do it. But I already know Kevin Walter was going to
 10 have the drugs.

11 Q. Okay. And so, you cut up the pieces of paper
 12 before you went to the meeting at Papa's?

13 A. That's correct.

14 Q. But you didn't put it in the bag?

15 A. No. It was in the bag, but when we were
 16 sitting in the Northline Mall, before Papa's.

17 Q. I'm not talking about that. I'm talking
 18 Papa's. I've forgotten --

19 A. The money is not in the bag at Papa's. I mean,
 20 the paper is not in the bag at Papa's.

21 Q. Okay.

22 A. The money is.

23 Q. The money's in the bag?

24 A. The money is in the bag.

25 Q. But you've already cut up the pieces of paper?

172 1 cut-up paper?
 2 A. That was not my words, sir.

3 Q. All right. I thought someone had installed in
 4 your mind?

5 A. There was going to be a rip-off. I was taught
 6 never to rip no one off.

7 Q. Well, if there is going to be a rip-off, what
 8 were you doing to protect yourself from a rip-off?

9 A. I never said it was going to be a rip-off.

10 They suggested that it may be a rip-off.

11 Q. And when I asked you why you had pieces of
 12 paper cut up to put in a bag, you said because they
 13 suggested that you were going to be ripped off?

14 A. Did I not say I was -- I felt that I was going
 15 to be ripped off.

16 Q. And that's the reason you gave for cutting up
 17 the pieces of paper. So if that wasn't the reason you
 18 cut up the pieces of paper, why did you cut up the
 19 pieces of paper?

20 A. After we went to the north side area the first
 21 time and we came back to the south side, being that I
 22 was paying Mr. Johnson, you know what I'm saying? So he
 23 suggested, Man, look, I'm telling you these boys from
 24 the north side will possibly try to rob you. Just have
 25 some buy money. His quote was, "Just have some buy

174 1 A. That's correct.
 2 Q. And they're sitting in the car, waiting?
 3 A. The paper's sitting in the passenger's front
 4 seat on the floor.
 5 Q. The passenger's front seat on the floor?
 6 A. That's correct.
 7 Q. That's where you were driving?
 8 A. No, that's where I was sitting at.
 9 Q. That's where you were riding?
 10 A. Yeah, uh-huh.
 11 Q. So you cut up all these pieces of paper and put
 12 it on the front, right between your legs there on the
 13 front?
 14 A. That's correct.
 15 Q. But you didn't put it in the bag; you had the
 16 actual money in the bag?
 17 A. At this particular moment, yes.
 18 Q. And you showed that money to Kevin Walter and
 19 said, Hey, here's the money. Let's go. Let's do it?
 20 A. That's right.
 21 Q. And they said, Huh-uh?
 22 A. Uh-huh.
 23 Q. Did you go to this other location off
 24 Cavalcade?
 25 A. Yes, we did.

175 Q. You've heard testimony about that?
 1 A. Well, I mean, we did. I have no reason to lie.
 2 Q. Right. You've heard testimony about going to
 3 Cavalcade; so y'all went to Cavalcade, right?
 4 A. If that's the area, the name of the street,
 5 yes, it is.
 6 Q. By some grocery stores, whether it be a Pigly
 7 Wiggly or Sing-On?
 8 A. It was a grocery store. It was closed, though.
 9 Q. And try to do a drug deal there?
 10 A. Right.
 11 Q. Didn't go down?
 12 A. No.
 13 Q. You still had the money?
 14 A. The bag was in the car.
 15 Q. All right. The question was, you still had
 16 your money?
 17 A. Oh, yeah, I still had my money.
 18 Q. Had you put the paper in the bag yet?
 19 A. No.
 20 Q. Still plan on doing a real deal?
 21 A. Well, at this time they said they were going --
 22 me follow them to Cavalcade, as you said. And they was
 23 going to show me a sampler of the drugs first.
 24 Q. And did they?
 25

177 A. Yes, it is.
 1 Q. Well, not home turf; it's just your comfort
 2 zone?
 3 A. Sure is.
 4 Q. Your father lives off Westridge?
 5 A. Yes, he does.
 6 Q. Okay. You're familiar with that area?
 7 A. Yeah. I mean, it's right off 610.
 8 Q. And you had met over there at Shoney's, which
 9 is not too far from that location with Kevin before?
 10 A. Right.
 11 Q. And were you surprised whenever four people
 12 showed up at Bennigan's? As opposed to two, Kevin and
 13 Holley, there are now two more people?
 14 A. None at all, not me.
 15 Q. All right. And did y'all go inside Bennigan's?
 16 A. Yes, we did.
 17 Q. And some of them ate, and some of them didn't?
 18 A. If I could recall right, they all ate besides
 19 Bug and I.
 20 Q. And then y'all were going to go to another
 21 location to do the dope deal?
 22 A. I wanted to do it there.
 23 Q. Right there. Now at that time, when you're at
 24 Bennigan's --
 25

176 A. No, they didn't.
 1 Q. Okay. Were they trying to get you to give them
 2 the money so they could go get the drugs and bring them
 3 to you?
 4 A. They came out at me once or twice, but then it
 5 all changed.
 6 Q. So what else would there be? I mean, if they
 7 were going to show you the dope, then you just say, Why
 8 aren't I seeing the dope?
 9 A. Well, my cousin, Terrence Dodson, and Kevin
 10 Walter got into a heated argument.
 11 Q. They did. But did you ever ask, How come I'm
 12 not -- How come you won't show me the dope?
 13 A. I mean, that was a question that I asked; but
 14 not to Dion Holley, to Kevin Walter.
 15 Q. To anybody?
 16 A. Yeah, to Kevin Walter.
 17 Q. Okay. And so, the dope deal wasn't done?
 18 A. No.
 19 Q. Okay. Then y'all meet up later another time?
 20 A. We left, and met up at Bennigan's.
 21 Q. Okay. And was it your idea to meet up at
 22 Bennigan's?
 23 A. Yes, it was.
 24 Q. Because that's your own turf, is it not?

178 A. Uh-huh.
 1 Q. -- do you have the money -- do you have the
 2 paper cut up inside a Victoria's Secret bag?
 3 A. No.
 4 Q. Okay. Do you and Dion Holley go outside and
 5 talk about the deal?
 6 A. Yes, we do.
 7 Q. In terms of now you're wanting to buy drugs
 8 from them, right?
 9 A. Uh-huh.
 10 Q. Did you ask to get a lower price?
 11 A. At that time I came clean with Dion Holley,
 12 because I thought he was a potential business partner.
 13 Q. And by coming clean, what do you mean?
 14 A. Well, I had been there for some time, couple of
 15 days. And I missed an awful lot of money in the clubs.
 16 The friends I associated with did not have money.
 17 Q. When you say you came clean with him, that
 18 means you told him what?
 19 A. I just told him that I only wanted nine ounces
 20 of cocaine.
 21 Q. Because the deal before had been for a kilo?
 22 A. No, sir, not --
 23 Q. It's always been a 9-ounce deal?
 24 A. No, it was not. It was for half.
 25

179 Q. So, how much is a half a kilo?
 1 A. A half a kilo is eighteen ounces, and nine
 2 ounces is a quarter key.
 3 Q. So now you had backed down from wanting a
 4 half -- did you start off wanting a half?
 5 A. Uh-huh.
 6 Q. When this deal on December 6th started and now
 7 back down to you only want 9; is that right?
 8 A. That's correct.
 9 Q. Is that what you're telling us? And what did
 10 Dion say, okay, or what --
 11 A. He kept wanting to show me the whole key, you
 12 know. He kept wanting to show me the whole thing and
 13 give me a sample. You know what I'm saying?
 14 Q. Wouldn't that be a good idea to get a sample?
 15 A. Well, of course. That's what I wanted; but at
 16 the same time, I'm letting him know that all I want is
 17 nine ounces; because in my mind, he touched -- well, I
 18 see this guy here, me and him -- could do some real
 19 business.
 20 Q. So did he show you a sample?
 21 A. No, he didn't.
 22 Q. Did he tell you why he didn't show you a
 23 sample?
 24 A. No.

181 Q. Another employee?
 1 A. No, that's a woman, female friend of mine.
 2 Q. You don't employ women?
 3 A. No.
 4 Q. So you didn't have the money at Bennigan's the
 5 first time, but you went and got it and brought it back?
 6 A. Correct.
 7 Q. Again, you still don't have the cut-up pieces
 8 of paper in the Victoria's Secret bag?
 9 A. Bug placed the paper to get the paper off his
 10 car, off the floor of his car. He placed it back in the
 11 bag; because he's figuring, well, I'm about to buy the
 12 drugs here at Bennigan's.
 13 Q. So it's just kind of a clean-up measure to keep
 14 his car up?
 15 A. That's his personal hygiene, I guess. I don't
 16 know.
 17 Q. So at no time was this cut-up pieces of paper
 18 going to be -- pretend to be money to buy dope?
 19 A. At Bennigan's?
 20 Q. Anywhere?
 21 A. Later on.
 22 Q. Later on?
 23 A. That's right.
 24 Q. Hadn't got there yet?

180 Q. Did there come a time then when you left
 1 Bennigan's by yourself and borrowed Bug's keys and went
 2 somewhere?
 3 A. Yes.
 4 Q. Where did you go?
 5 A. Right next door to the Meadow Ridge Apartments.
 6 Q. What did you go there for?
 7 A. To get my money.
 8 Q. Was it real money?
 9 A. Well, you see, you skip so far.
 10 Q. Well, I'm just --
 11 A. Yeah, the real money.
 12 Q. How much money was that going to be?
 13 A. At that time I only had seven thousand, but I
 14 was willing to spend forty-five hundred.
 15 Q. Do y'all then -- you go back to Bennigan's?
 16 A. That's correct.
 17 Q. And you've now got money, or you said you
 18 didn't have the money when you went to Bennigan's?
 19 A. That's correct.
 20 Q. Now you're wanting him to show you the dope.
 21 You didn't even have the money with you at Bennigan's?
 22 A. Well, you see, when they said to meet at
 23 Bennigan's, we were next door to Meadow Ridge Apartments
 24 with a friend, Blondel Richardson.

182 A. No, we haven't.
 1 Q. So y'all end up leaving Bennigan's?
 2 A. Yeah, they suggested we leave Bennigan's.
 3 Q. Okay. Now did they follow you or you follow
 4 them?
 5 A. They followed us.
 6 Q. Okay. And did you tell Bug where to go?
 7 A. Yes, I did.
 8 Q. Where did y'all go first?
 9 A. Fiesta parking lot.
 10 Q. And why did you go there?
 11 A. Well, because he said he didn't want to do
 12 business at Bennigan's; because they had too many white
 13 folks in the business, you know, watching and stuff. So
 14 we went to Fiesta.
 15 Q. When you go to the Fiesta, you don't go, like,
 16 to the front door of the Fiesta. You're in the parking
 17 lot, and you're kind of away from where -- is Fiesta
 18 open?
 19 A. Yes, it is.
 20 Q. So you're not there wanting to do a drug deal
 21 in front of the open Fiesta; you're in that parking lot
 22 a little further away from it?
 23 A. Not that further; because I have done business
 24 in grocery parking lots, and I find it better to do
 25 in

183

1 business like that.

2 Q. All right. Whenever you got to the Fiesta
3 parking lot, why didn't you do the deal there?

4 A. I don't know. Holley didn't want to do the
5 business there.

6 Q. But what did -- he said he didn't want to do
7 business there?

8 A. He seen a little security guard in a golf cart,
9 to which he assumed was the police.

10

11 Q. So that's the reason he didn't want to do the
deal there?

12 A. No. That's when he --

13

14 Q. That's what I'm saying. That's when he didn't
want to do the deal?

15 A. Uh-huh.

16

17 Q. Were y'all's cars parked close together there
at the Fiesta, or were they parked far apart, kind of
18 like Kevin?

19

20 A. Kind of like what Kevin said.

21

22 Q. But Kevin said, you know, they're several
lengths apart.

23

24 A. He exaggerated a little bit.

25

Q. But there were -- y'all weren't next --
together like you were at Lantern Point?

A. No.

184

Q. Then where do you go?

A. We went back to Meadow Ridge Apartments, to
Blondel Richardson's house.

Q. You went to his house?

A. Her house.

Q. I'm sorry? I'm sorry?

A. Apartment.

8

9 Q. You heard testimony about going to a parking
lot of some buildings. So you're saying this is where
10 the parking lots of the buildings is?

11

A. No.

12

Q. That is a different deal?

13

A. This is the true testimony I'm giving you.

14

Q. I understand, sure. So you go to Blondel
Richardson's apartment. Do you go inside the apartment?

15

A. No. I get down to press the code, because it
has a security guard gate there. But as I'm pressing
the code, sometimes the code changes. And at the same
time I'm trying to go figure out the code, Dion Holley
jumps out of the Lexus.

21

Q. And says, We ain't doing it here?

22

A. He says, Man, I'm not doing no business here.
You might have a house full of people waiting for me.

24

Q. You might have a house full of business
partners there or something?

185

A. I can't speculate what he meant.

Q. So where do you go then?

A. Bug Johnston got aggravated and told Dion
Holley at that point, Man, that's all right. I'm going
to my house. Chucky, if you want to stay, you can. So
I got back in the car, and Bug burned off.

Q. Where did he go then?

A. He turned down some street, and Dion Holley and
them in the Lexus followed us; and that's when we went
to the apartment buildings, the business buildings.

11

Q. The business buildings, right. And you're in
the parking lot of the business buildings, and do y'all
stop?

A. Yes, sir.

15

Q. And Dion -- Holley is following you in --

16

A. Yes, sir.

17

Q. --his car? Now is he driving the car or is
Kevin Walter?

A. Kevin Walter is driving.

20

Q. They do -- y'all do a deal there?

21

A. No.

22

Q. So, who says this is not a cool place to do the
deal?

24

A. Dion Holley seen -- the building must have some
kind of naval something, because I seen some guys with

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the army suits on. And Dion said, Oh, man, they got
cops everywhere, acting in a paranoid state.

Q. So you went to another location?

A. No, we did not go to another location. Bug
Johnson just got frustrated and said, Man, I'm going.
I'm telling you his concern was he was trying to rob
him, and he got very upset.

Q. So you and Bug Johnson -- you're the only two
in the car?

A. We're the only two in the vehicle.

Q. So where do y'all go?

A. We take off; and he drives off to some side
street, which happens to be, now I know as, your Lantern
Point.

Q. When you went to my Lantern Point, did y'all
stop?

A. Yes, we did.

Q. Why?

A. The Lexus was blinking their flashlights at us,
the headlights.

Q. Did the Lexus then stop behind y'all?

A. Yeah.

Q. And did Bug turn his car around?

A. No, sir.

25

Q. Car didn't ever turn around?

187 A. Not yet, sir.
 1 Q. Well, eventually turn around?
 2 A. After Dion Holley got out.
 3 Q. Is he the one that said, Turn around?
 4 A. He got down and said, Man, okay, look. It's
 5 right here. You know, I'm telling you it's right here.
 6 Q. Does Bug Johnson then turn the car around to
 7 where they're facing?
 8 A. Yes, sir.
 9 Q. Like you've seen here in the diagram?
 10 A. That's right.
 11 Q. And when we have the cars facing each other,
 12 who -- is this State's Exhibit 44?
 13 A. That would be correct.
 14 Q. Correct?
 15 A. Yes, sir.
 16 Q. Showing the right people in the right places?
 17 A. Yes, sir.
 18 Q. Walter driving, Terrence Gibson over here,
 19 Carmouche in the back, and Holley over here?
 20 A. Well, no. Oh, yeah, at that position Dion
 21 Holley was never in the car.
 22 Q. He was out?
 23 A. He was out.
 24 Q. But he was out from that seat location?

189 1 concern, no bearing on my decision to do this deal.
 2 2 Q. All right. So where did you go?
 3 3 A. I opened up -- well, after Mr. Samuel Johnson,
 4 he also gave me the bag and he said, Here, take this
 5 weapon. And I took the weapon and I placed it right
 6 here on my left side here, under my shirt, threw my
 7 shirt over. And I got down from the vehicle, and I
 8 walked straight down into -- Dion Holley told me to go
 9 in the back of the car, because the dope was in the back
 10 of the Lexus.
 11 Q. Okay. So you went and got out here. You
 12 got -- Johnson gave you the bag, plus gave you a
 13 firearm?
 14 A. That's right.
 15 Q. 9 millimeter semiautomatic?
 16 A. That's what it was.
 17 Q. You went down here?
 18 A. That's correct.
 19 Q. Met Holley in the back?
 20 A. No, I met Gibson.
 21 Q. Gibson at the back?
 22 A. Holley was in the front, about to raise up the
 23 hood. Bug Johnson and Holley was at the front of the
 24 vehicles.
 25 Q. Both out of the vehicles?

188 1 A. Right.
 2 Q. That seat is empty. And then you're up here?
 3 A. Yes, ma'am (sic).
 4 Q. So after -- Dion Holley is out while the car is
 5 being turned around?
 6 A. That's right.
 7 Q. Car gets turned around. Do you get out?
 8 A. Yes, I do.
 9 Q. Do you have your money with you?
 10 A. I had my money in my waist belt right here; but
 11 Bug threw me the bag, the Victoria's Secret bag.
 12 Because he said, Chucky, you don't know this area.
 13 Trust me.' And he had two pistols.
 14 Q. Who had two pistols?
 15 A. Bug Johnson.
 16 Q. So he threw you -- did you have a gun?
 17 A. I did not have a gun at this point.
 18 Q. All right. So he threw you the bag. He had
 19 already kind of policed the area in the car and put the
 20 paper in the bag. He threw you that bag filled with
 21 paper?
 22 A. Correct.
 23 Q. What did you think you were supposed to do with
 24 that?
 25 A. That bag? Honestly, I did not have no

190 1 A. Both out of the vehicle.
 2 Q. Did they raise both hoods?
 3 A. When I last seen, Mr. Johnson was in the act of
 4 raising his hood.
 5 Q. But you never saw the hood raised?
 6 A. No.
 7 Q. Never saw the hood of this vehicle raised?
 8 A. The hood was popped on the Lexus.
 9 Q. But not raised?
 10 A. Not raised.
 11 Q. And the hood was popped here, or do you know?
 12 A. He was in front of it. Like I said, when I
 13 passed by, he was in the act of raising it up.
 14 Q. So you and Gibson are in the back?
 15 A. That's correct.
 16 Q. And you got the money; you got a gun?
 17 A. Uh-huh.
 18 Q. What happens then?
 19 A. There was some discussion between me and
 20 Mr. Gibson.
 21 Q. All right. Business discussion?
 22 A. Well, he was just like, Let me see the money,
 23 and I'm going to show you the dope, man.
 24 Q. Did you ask him, Let me see the dope, and I'll
 25 show you the money?

191 A. I don't recall.
 1 Q. Holley come to the back or not?
 2 A. Mr. Holley never came to the back.
 3 Q. Okay. And so what -- I guess then at that
 4 point, Mr. Gibson must have pulled a gun on you?
 5 A. No, he did not.
 6 Q. Oh, he didn't?
 7 A. Not at this point.
 8 Q. So what happens, while you're back in the back,
 9 I mean, you're talking. You're talking back and forth
 10 about the deal, but --
 11 A. It didn't last that long. I mean, it was not
 12 long.
 13 Q. I understand, but you say he didn't pull a gun
 14 at that point?
 15 A. At this point, when I went to the back of the
 16 vehicle, he asked me to see the money. I showed him my
 17 waist line, where the green stack of money was raising
 18 out of. I had the bag in my hands, also, though, and --
 19 Q. You had lots of money underneath? You had a
 20 bag, plus the money? You showed him the real money; and
 21 you had a bag that, I guess, could pretend to be money?
 22 A. Like I said, the bag never had no bearing on
 23 me.
 24 Q. You're carrying it?

193 Q. How far away were you from Mr. Gibson when you
 1 fired?
 2 A. Well, like I said, I was in the running
 3 position when I fired.
 4 MR. McCLELLAN: Could I ask the witness to
 5 step down just for a moment, Your Honor?
 6 THE COURT: Yes.
 7 Q. (BY MR. McCLELLAN) Let's say this is the back
 8 of the Lexus. I'll be you and you be Gibson.
 9 A. You stand over there.
 10 Q. Is this the corner of the Lexus, where the
 11 passenger seat would be where Mr. Hill is, or is this
 12 more like in the middle of the trunk area?
 13 A. No, you would have to back up a little bit
 14 more, because he was not that close. This seems to be
 15 about right.
 16 Q. This is how we're talking back and forth?
 17 A. That's right.
 18 Q. We're not here?
 19 A. No, we are not.
 20 Q. And you say that Gibson raises his shirt?
 21 A. Raised up his shirt.
 22 Q. You see a pistol?
 23 A. With a black handle.
 24 Q. You previously raised your shirt up to show the

192 A. I did not really care about the bag.
 1 Q. But you were carrying it?
 2 A. Yes, I was carrying it.
 3 Q. I mean, why were you carrying it?
 4 A. Because Bug Johnson had gave it to me.
 5 Q. So, you know --
 6 A. At this point -- you know what I'm saying? I'm
 7 taking what he's telling me, you know, into
 8 consideration; because it has been odd meeting with
 9 Walter. Like I said, we've been doing business; and we
 10 had never been going through this situation.
 11 Q. Sorry. What happens then?
 12 A. Mr. Gibson -- Mr. Dion says, What the hell is
 13 going on back there? And Mr. Gibson yelled back. He
 14 wanted to see the F-ing dope. So Mr. Dion said, Show
 15 them the F-ing dope.
 16 Q. And that's when Gibson pulled a gun?
 17 A. No, it was a look to which you could never
 18 imagine.
 19 Q. Tell me about that look.
 20 A. I cannot describe it.
 21 Q. What happens then?
 22 A. Gibson raised up his shirt, and I seen the
 23 handle of the gun. And I turne my back in a running
 24 position, and I raise up mine and I just fired.

194 money.
 1 A. I done like this to show the money.
 2 Q. Raised up like --
 3 A. The pistol was right here.
 4 Q. So he couldn't have seen the pistol when you
 5 raised up your shirt to show the money?
 6 A. I don't believe he was looking for a pistol.
 7 Q. All right. And when you saw the pistol, then
 8 you say you pulled your gun?
 9 A. Uh-huh.
 10 Q. And then you started running and shooting or
 11 what? Tell me what --
 12 THE DEFENDANT: If I could, Your Honor, I
 13 would like to demonstrate for the jury, as well as --
 14 THE COURT: You've got an attorney. He'll
 15 get you back on redirect.
 16 MR. HILL: Just let Mr. McClellan ask the
 17 questions.
 18 Q. (BY MR. McCLELLAN) Go head and demonstrate.
 19 You have the bag in what hand?
 20 A. I have the bag in this hand.
 21 Q. How do you have the bag?
 22 A. It was balled up like this.
 23 Q. You have the bag in that hand. Are you holding
 24 it down like --
 25

195
 1 A. No, no, no.
 2 Q. Hold it like you were holding it. And then, so
 3 I raise up and I show you -- you see a pistol?
 4 A. Uh-huh.
 5 Q. All right. Show me what happens now.
 6 A. I threw it to you.
 7 Q. Throw it to me. Does he catch it?
 8 A. I don't know.
 9 Q. You just threw it to him. All right. You
 10 don't know whether he caught it. Then what do you do?
 11 A. Then I done like this.
 12 Q. And without looking?
 13 A. Without looking.
 14 Q. Shot back in his direction?
 15 A. Yes.
 16 Q. How many times did you shoot?
 17 A. I cannot recall.
 18 Q. Where was Dion Holley at this time?
 19 A. Dion Holley, to my understanding, was still in
 20 the front of the Lexus with Mr. Johnson.
 21 Q. Did you fire at Dion Holley?
 22 A. No.
 23 Q. The only person you fired at was Gibson?
 24 A. Mr. --
 25 Q. He was the only person you fired at?

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 1 Q. Do you know what happened to Dion Holley?
 2 A. I seen him.
 3 Q. Okay. Where do you see him?
 4 A. As I'm running, Bug Johnson passed on the side
 5 of me like this. And as I'm running, I pass up the
 6 Lexus. I'm running, and I see Mr. Gibson.
 7 Q. Okay. Well, you had shot Mr. Gibson as you're
 8 running?
 9 A. Not Mr. Gibson, Mr. Holley.
 10 Q. Okay. You see -- so you run past the --
 11 A. A little past the front of the Lexus.
 12 Q. Past the front of the Lexus? This is after you
 13 had shot Kevin Walter?
 14 A. Right.
 15 Q. Don't know how many times you shot him?
 16 A. No, I do not.
 17 Q. After you shot Gibson and after you shot
 18 Walter, you're running past the front of the Lexus and
 19 you see Dion Holley where?
 20 A. He's stooping down in front of the Lexus, but a
 21 little turned from the Lexus.
 22 Q. On the --
 23 A. He's on the left-hand side, the passenger side.
 24 Q. So he's stooping down like right over in here?
 25 A. No, sir.

196
 1 A. No, no.
 2 Q. You fire at Gibson. You didn't fire, at any
 3 time, at Dion Holley?
 4 A. Not that I recall.
 5 Q. You're starting back now down this side
 6 towards -- back towards where Bug Johnson's car is, and
 7 what happens then?
 8 A. Well, Mr. Walter was coming towards the back.
 9 Q. So he had gotten out?
 10 A. Yes, he did.
 11 Q. Before the shot or --
 12 A. Before the shot.
 13 Q. He's already headed back in your direction?
 14 A. That's right.
 15 Q. Whenever you turn around and fire blindly
 16 towards Gibson, and now you're heading down -- and you
 17 must be running right into Walter?
 18 A. Mr. Walter.
 19 Q. What happens then?
 20 A. Mr. Walter, he makes a run back to the Lexus.
 21 Looks like he's reaching for something. I started
 22 firing at him.
 23 Q. Started firing at him. Okay. You can go ahead
 24 and have a seat. How many times did you fire at him?
 25 A. I cannot recall..

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 1 Q. In the front or the back?
 2 A. In the front.
 3 Q. In the front right here?
 4 A. Further.
 5 Q. Right here?
 6 A. Right about on there.
 7 Q. In between the cars?
 8 A. Uh-huh.
 9 Q. All right. So did you shoot at him?
 10 A. No.
 11 Q. What's he doing? When you say stooping down,
 12 was he rung or just stooping down?
 13 A. No, he was stooping down. We did not -- you
 14 know, it was not like I'm looking at you. It's not
 15 nothing like that. We seen each other, we spooked each
 16 other, and I headed right back to the Lexus.
 17 Q. You spoke to each other?
 18 A. We spooked.
 19 Q. Spooked each other. So you run back towards --
 20 you're going back towards Johnson's car?
 21 A. No, Johnson's car is gone.
 22 Q. Johnson has already left. Johnson ever fire
 23 his gun?
 24 A. I do not know.
 25 Q. So why are you going that direction?

199 A. Because in the presence of me was Mr. Holley.
 2 Q. In front of you, Mr. Holley?
 3 A. That's right. And I seen Mr. Holley alive.
 4 Q. Right; but you said when you're going down the
 5 side of the Lexus, Mr. Holley is kind of crouched down
 6 over here?
 7 A. Uh-huh.
 8 Q. You see him; y'all spook each other?
 9 A. I run back to the Lexus on the driver's side
 10 that way.
 11 Q. You stop and go right back here?
 12 A. That's correct.
 13 Q. You jump in the car?
 14 A. Yes, sir.
 15 Q. And you take off?
 16 A. That's right.
 17 Q. Okay. And Mr. Holley doesn't do anything. He
 18 doesn't try to get in the car or anything?
 19 A. Everything happened so fast. It was, you know,
 20 fast.
 21 Q. Okay. Now I believe you testified during
 22 direct examination that you became aware that Mary
 23 Carmouche was in the car when you got to the stop sign.
 24 I guess that's the stop sign there at McNee and Lantern
 25 Point Drive?

201 1 intentions, you know, running for my life is what I was
 2 doing. But then when I seen Mr. Holley in the front of
 3 the car, I did not know he had a weapon. I did not know
 4 what was going on with him. I seen him. He seen I. We
 5 spooked each other. I ran back to the Lexus.
 6 Q. At any time did you hear any shots other than
 7 the shots that you were creating?
 8 A. The only time I heard a shot was the first shot
 9 when I drew my weapon. I did not hear no shots. I did
 10 not see no one fall. I did not see no one get shot.
 11 Q. Now you jump in the Lexus?
 12 A. That's correct.
 13 Q. And you take off. And then you say what -- did
 14 Mary Carmouche, just after you find out she's in the
 15 backseat, she decided to crawl up in the front seat and
 16 y'all go riding?
 17 A. No, sir no, sir. When I came to the stop sign
 18 at the whatever street --
 19 Q. Right.
 20 A. -- when I came there, I noticed Miss Carmouche
 21 was in the vehicle. Her first thing what she said was,
 22 Did I kill Dion Holley?
 23 Q. Okay.
 24 A. And I replied, I did not kill anyone.
 25 Q. Well, you're wrong about that, right? I mean,

200 1 A. I guess so.
 2 Q. Well, you knew Mary Carmouche was in the car
 3 whenever you left Bennigan's?
 4 A. Well, I mean, the incident that happened was
 5 not focused on Miss Mary Carmouche.
 6 Q. What incident?
 7 A. The incident that just took place, the incident
 8 that I was a part of. I was fearing for my life.
 9 Q. Fearing for your life. You shot -- let me see
 10 if I understand this correctly. There are six people
 11 that go to Lantern Point Drive?
 12 A. That's correct.
 13 Q. All right. Two people come out of there not
 14 shot and alive? Only two people come out who are not
 15 shot?
 16 A. No, I'm sorry. I recall three.
 17 Q. All right. Who's the third?
 18 A. Miss Carmouche.
 19 Q. So Mr. Gibson was shot and died, and Mr. Holley
 20 was shot, and Mr. Walter was shot; but you're in fear of
 21 your life, and neither you nor Bug Johnson are shot?
 22 A. That's right. Well, Bug Johnson left me there.
 23 Q. You had no choice but to take that Lexus? I
 24 mean, there was nothing else you could have done, right?
 25 A. Well, you know, like I said, I was, in my

202 1 Terrence Gibson -- the only person that shot Terrence
 2 Gibson was you, and he died?
 3 A. That's correct.
 4 Q. Okay. And you did kill him?
 5 A. Not -- it was not my intentions to kill him.
 6 Q. It was accidental?
 7 A. Mr. Lyn, I was just scared for my life.
 8 Q. Okay. You're scared for your life, and you and
 9 Bug Johnson and Mary Carmouche are the only people that
 10 don't get shot out there?
 11 A. I mean, that's the way it happened, true
 12 enough. You know what I'm saying?
 13 Q. And other than asking you, Is Dion Holley
 14 alive, did she say anything else? Not what she said,
 15 but did she say any other things?
 16 A. She said several things.
 17 Q. Now you -- well, was she upset?
 18 A. Not that I can recall.
 19 Q. Okay. So Mary Carmouche, who had been with
 20 Kevin Walter and Terrence Gibson and Dion Holley in a
 21 car, sees those three people get shot. You jump in the
 22 car and drive off, and you had never met her until the
 23 Bennigan's; is that right?
 24 A. I don't believe she seen no one get shot.
 25 Q. Because she was in the backseat?

203

1 A. I think she was in -- laying down in the back
 2 of the seat.

3 Q. Now you would agree with me she heard a bunch
 4 of gunshots, or it would have been available for her to
 5 hear a bunch of gunshots?

6 A. I'm sure she would have.

7 Q. But she wasn't scared?

8 A. She did not seem to be scared.

9 Q. All right. And other than Holley, she didn't
 10 ask about anybody?

11 A. All she said at the time was that I killed
 12 Mr. Holley.

13 Q. Okay.

14 A. No one else.

15 Q. Now, so, then she was -- you said you told her
 16 to get out around at a Burger King or something?

17 A. It was a light right across -- that crosses
 18 Main Street, and I did not tell her to get out. I asked
 19 her if she wanted to get out.

20 Q. Believe you testified on direct -- correct me
 21 if I'm wrong -- that, I told her to get out of the car,
 22 and she didn't get out of the car?

23 A. That's a true statement, but I did not say it
 24 the way you said it.

25 Q. Tell me how you said it.

205

1 A. The Main Street area, the one I'm familiar
 2 with, will take you straight there.

3 Q. So, you're going down Main street, and the car
 4 pulls up behind you flashing the lights, and you figure
 5 these are the guys?

6 A. No, sir. I figured it was the police, was my
 7 first thought.

8 Q. So the police usually just flash their lights?
 9 They don't have red and blue lights?

10 A. Mr. Lyn, I'm telling you a true statement, what
 11 I thought.

12 Q. You ended up meeting Bug Johnson?

13 A. That's correct.

14 Q. He tells to you follow him?

15 A. That's correct.

16 Q. And you follow him back to the Fondren Court
 17 Apartments?

18 A. That's correct.

19 Q. Just happen to be in the area where you've been
 20 staying with Howard Scott?

21 A. Excuse me?

22 Q. Just happen to be in the area where you had
 23 been staying with Howard Scott?

24 A. That's correct.

25 Q. Fondren Court Apartments?

204

1 A. I said, Would you get out of the car?

2 Q. And she didn't get out?

3 A. No. She replied -- she said something to me
 4 back.

5 Q. All right. Then you say you're going down the
 6 street. Where are you going?

7 A. Where I'm going? It's several things in my
 8 mind. I'm scared.

9 Q. I said --

10 A. I know what you said.

11 Q. I'd like you to just answer that question.
 12 Where were you going?

13 A. To -- I was going to a friend's named Shannon
 14 Johnson's house.

15 Q. Where does that person live?

16 A. She lives in Houston, Texas.

17 Q. Can you be more specific than that?

18 A. Hiram Clarke area.

19 Q. You weren't going to go back to this apartment
 20 that you had been trying to stop at earlier there, close
 21 by?

22 A. That apartment never came to my mind.

23 Q. Never came to mind. And so, where does this
 24 other person live? You said Hiram Clarke. How would
 25 you get there from 610?

206

1 A. Well, he live right across the street.

2 Q. I know that's where you've been staying.

3 A. Uh-huh.

4 Q. And Mary Carmouche is with you all this time?

5 A. All this time.

6 Q. You park the vehicle?

7 A. I park the vehicle.

8 Q. She gets out?

9 A. She and I both get out.

10 Q. All right. And other people -- and I think
 11 that's when you said Shawn England came up and said it
 12 wasn't your fault?

13 A. I mean, he came up to me first and pulled me on
 14 the side and said something else.

15 Q. Well, you testified that he had came up and
 16 said it wasn't your fault?

17 A. That's correct, before I even told him
 18 anything.

19 Q. Okay. Shawn England with you?

20 A. No, he wasn't.

21 Q. But he still knew it wasn't your fault?

22 A. Yes, he did.

23 Q. All right. And Mary is just kind of one of the
 24 group, I mean, people coming up. And she's real
 25 comfortable with people, and she's not acting scared;

207 1 she's just talking?

2 A. I could not tell you how Miss Carmouche was
3 acting, because I was not focusing on Miss Carmouche.

4 Q. You said part of the time she was talking to
5 Bug?

6 A. Bug Johnson only at that time, Mr. Bug Johnson.

7 Q. All right. And her and Bug Johnson known each
8 other before that day?

9 A. I could not tell you.

10 Q. And then a bunch -- you said you were crying?

11 A. That's right.

12 Q. Why were you crying?

13 A. Because I was hurt inside.

14 Q. Why were you hurt inside?

15 A. I was just hurt by the situation that happened.

16 Q. About not knowing whether or not you had even
17 hurt anybody? You didn't even know you had shot
18 Terrence Gibson?

19 A. Well, I did not know I shot Mr. Gibson; but I
20 seen Mr. Walter. He did not fall. He was just running,
21 so I knew he was alive. And I seen Mr. Dion with my own
22 eyes, so I knew he was alive, also. So, in my mind, I
23 did not kill no one at that time.

24 Q. So, why are you crying?

25 A. Because I'm fearing for my family in Louisiana,

208 1 because Mr. Walter knew where my mother lived.

2 Q. So you're afraid they're going to come after
3 you?

4 A. Not after me; after my family.

5 Q. After your family. Because you can take care
6 of yourself?

7 A. I did not tell you that.

8 Q. Well, but you can take care of yourself, can't
9 you?

10 A. Every man should be able to take care of
11 himself.

12 Q. All right. Then Kevin arrived on a bicycle?

13 A. I mean, that's a name I heard y'all introduce.
14 I know him better as Skin.

15 Q. You didn't hear me introduce anything.

16 A. I'm talking about the witnesses that got up
17 here.

18 Q. All right. So somebody -- that guy used to
19 ride a bicycle, you know as Skin. Why did Shawn and
20 Howard Scott make you take off your clothes and take a
21 shower?

22 A. They knew what had happened already.

23 Q. Well, did you get blood all over you?

24 A. I could not recall. I don't know.

25 Q. Then why you need to wash your clothes?

209

1 A. They made me take off my clothes. They gave me
2 some new clothes, because they had a plan.

3 Q. Oh, now, who had the plan, Scott or --

4 A. Mr. England.

5 Q. Mr. England had a plan?

6 A. Uh-huh.

7 Q. They had you put on other clothes?

8 A. That's correct.

9 Q. And then, of course, Shawn got picked up by
10 Yellow Cab?

11 A. Later on that night.

12 Q. Over by the big box?

13 A. No, he did not go by no box. The cab pulled
14 right in front of Mr. Howard's apartment.

15 Q. Is that right?

16 A. That's right.

17 Q. He come up to -- the cab come up to 1402?

18 A. No. Well, Mr. Howard's apartment is right
19 here. There is a walkway, and you honk your horn. And
20 if you're waiting on a cab, you're going to come
21 outside, I guess.

22 Q. Well, I thought to get in there he had to punch
23 a code?

24 A. He was already in there.

25 Q. Who?

210

1 A. The cab driver.

2 Q. So he already knew the code, evidently?

3 A. No. I think if you call the apartment, I think
4 they have a little code, also.

5 Q. So somebody, at 3:59 in the morning, answered
6 the phone so they can tell the cabbies what code to
7 punch in?

8 A. Well, everybody was there and they was up.

9 Q. Sounds like there was a lot of people out there
10 at the time you arrived back at Fondren. About what
11 time did you arrive back there?

12 A. At the time of the cab?

13 Q. No, not the time of the cab, the time you
14 arrived back with the Lexus?

15 A. Oh, it was 11:00 o'clock, about 11:15,
16 something around that time.

17 Q. Oh, it was?

18 A. Yeah, it was about -- it wasn't 12:00 o'clock
19 yet. I know that much.

20 Q. You heard the testimony about the ambulance --
21 the police officers arriving at 11, you know, 59,
22 something like that. So they laid there for about
23 forty-five minutes before the police get there?

24 A. Who laid?

25 Q. Terrence and Kevin Walter?

211 A. I was not there, so I don't know how long they
 2 stayed there.
 3 Q. If you get back to the apartment at 11:15, they
 4 had to lay there a long time before the police arrived?
 5 A. Well, I recall when we left Bennigan's, it was
 6 around 10:15, something like that.
 7 Q. Now you heard Terrence Dodson testify?
 8 A. I sure did.
 9 Q. And he's your cousin?
 10 A. Yes, my first cousin.
 11 Q. And he testified that you told him a whole
 12 bunch of different things than what you're testifying
 13 to?
 14 A. That's right.
 15 Q. Are you saying Terrence Dodson is lying?
 16 A. I'm saying he is most definitely lying.
 17 Q. Well, was Anthony Trail lying when he said
 18 that, you know, he took you over by his apartment the
 19 next day, and you picked up some shades and said you had
 20 some girl over there at this dead-end part near his
 21 apartment that was performing oral sex on you?
 22 A. That part of Mr. Trail's statement is correct,
 23 when I went over there to get the glasses. The glasses
 24 had been there since December 5th.
 25 Q. So this wasn't something that happened on

213 being arrested was Detective Thad Badeaux?
 2 A. That's correct.
 3 Q. And the story you told him is pretty much the
 4 story you told officer Ted Bloyd, or Detective Ted
 5 Bloyd?
 6 A. I don't recall me talking to Detective Bloyd.
 7 Q. Not in Detective Badeaux's presence? Detective
 8 Badeaux, Ted Bloyd, and Officer King, all three of you
 9 there together?
 10 A. All four of us were in the interrogation room,
 11 that's correct.
 12 Q. And you talked to and told them about this
 13 incident and what went down; is that right?
 14 A. Not in their presence. I remember telling them
 15 that my lawyer was downstairs, and I want to talk to him
 16 first.
 17 Q. Well, would it be incorrect that you said that
 18 you would talk to them off the record?
 19 A. I remember me talking to Mr. Thad Babineaux on
 20 December 9th off the record.
 21 Q. Is that the same one as Badeaux?
 22 A. Badeaux.
 23 Q. Well, did you tell -- are you saying you did
 24 not talk in the presence of Detective Ted Bloyd and
 25 Officer King and Detective Thad Badeaux in Lafayette,

212 December the 6th?
 1 A. No, not at all, sir.
 2 Q. So your first cousin, Terrence Dodson, decides
 3 to come in here and just make all kinds of lies up?
 4 A. Well, he also gave testimony that he was
 5 threatened, if I'm not mistaken.
 6 Q. Threatened?
 7 A. By the police officers.
 8 Q. Oh, he's threatened by the police officers?
 9 A. I mean, I could have heard wrong; but I thought
 10 that's what I heard.
 11 Q. Now the police officers did come to Lafayette
 12 Louisiana, though, where you fled to and interviewed
 13 you, right?
 14 A. Well, I went to Lafayette, Louisiana.
 15 Q. The question was, police officers came to
 16 Lafayette, Louisiana from Houston to interview you, did
 17 they not?
 18 A. The police officers from Houston?
 19 Q. Yes.
 20 A. Yes, they did.
 21 Q. Officer Ted Bloyd?
 22 A. He sure did.
 23 Q. And Officer Thad Badeaux or Detective Thad
 24 Badeaux. In fact, the first person you talked to after

214 Louisiana, and talk to them about the events of this
 1 day?
 2 A. I don't remember the conversation.
 3 Q. Well, do you recall telling them that?
 4 MR. HILL: Judge, I'm going to object to
 5 him trying to impeach him with those statements.
 6 THE COURT: Approach.
 7 We're going to take a break. Please go
 8 back in the jury room.
 9 (Outside jury's presence:
 10 MR. HILL: We object to the State asking
 11 any questions regarding any alleged statement Mr. Mamou
 12 made when he was in the custody of law enforcement
 13 officials in Lafayette or other parishes of Louisiana.
 14 The reason is it violates Texas Code of Criminal
 15 Procedure, Article 38.22 and 38.23, Article 1, Section
 16 9, 10, and 19 of the Texas Constitution, as well as the
 17 Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments
 18 to the U.S. Constitution. We don't believe that it's
 19 proper impeachment, that any testimony that is offered
 20 at this point would be inappropriate; because the
 21 defendant invoked the right to counsel, and the officers
 22 in Louisiana violated his right to counsel once he had
 23 invoked it.
 24 THE COURT: Did you want anything on the

215

1 record?

2 MR. MCCLELLAN: I believe we're entitled
3 to ask him about prior statements he made to the police
4 once he's placed himself on the stand.

5 THE COURT: I'll allow you to do that.

6 MR. HILL: My objection is overruled?

7 THE COURT: Yes, sir.

8 Bring them in, please.

9 (Jury is brought in and seated.)

10 THE COURT: Proceed.

11 Q. (BY MR. MCCLELLAN) Mr. Mamou, I believe we
12 were talking about your discussions in Louisiana with
13 Detective Bloyd and Officer King and Officer -- or
14 Detective Badeaux. Are you saying then you don't recall
15 making -- talking to them about the events of December
16 the 6th, 1998, in Louisiana?

17 A. I don't recall me talking to them. I recall
18 them talking to me.

19 Q. Do you recall telling them your side of the
20 story?

21 A. I don't recall.

22 Q. Okay. Are you saying you didn't, or you just
23 don't recall?

24 A. I'm just saying I don't recall.

25 Q. You say you do recall talking to Detective

217

1 A. I think I did mention something like that,
2 dealing with Kevin Walter.

3 Q. And did you tell him that y'all met at
4 Bennigan's and went to a street where the dope deal was
5 going to go down; and while you were on that street
6 getting ready to do a dope deal, a car drove by and
7 opened fire on y'all?

8 A. I don't recall that.

9 Q. Are you saying you didn't tell the detective
10 that?

11 A. I'm not saying that. I'm saying I don't recall
12 the actual events that I told Mr. Badeaux on the night
13 of 9th of December.

14 Q. Well, did that happen? Did a car drive by and
15 people then fired shots at you?

16 A. No car drove by.

17 Q. Okay. You didn't lie to the officers, did you?

18 A. Excuse me?

19 Q. You didn't lie to the officers?

20 A. Not that I recall. I don't think I did.

21 Q. You're saying then that you didn't tell them
22 that -- well, did you tell them about the hood being
23 raised?

24 A. Who was them?

25 Q. The Detective Badeaux?

216

1 Badeaux?

2 A. On the 9th of December.

3 Q. Right. And did you tell Detective Badeaux that
4 you had gone to Houston to do a dope deal?

5 A. I don't recall.

6 Q. Okay. Well, had you indicated to him that the
7 people that were shot there in Houston, meaning, I guess
8 Kevin Walter, Dion Holley, and Terrence Gibson, were
9 connected with Rap-a-lot Records, and they were very
10 dangerous people?

11 A. I don't think I mentioned all those boys
12 connecting with Rap-a-lot Records.

13 Q. Well, did you indicate that the people shot
14 were connected with Rap-a-lot Records and were very
15 dangerous?

16 A. I indicated that Mr. Holley claimed that he was
17 connected with Rap-a-lot Records.

18 Q. And that he was very dangerous?

19 A. No, I never said that.

20 Q. Did you tell Detective Thad when -- that you
21 say you don't recall telling him you came to Houston to
22 do a dope deal?

23 A. Not that I can recall.

24 Q. Do you recall telling him that you, in fact,
25 were going to do a dope deal with a Kevin Walter?

218

1 A. Oh, him.

2 Q. Him.

3 A. On the 9th?

4 Q. On the 9th, 10th, or anytime? Go ahead.

5 A. The only conversation me and Mr. Badeaux had
6 was on the 9th of December of 1998.

7 Q. And did you ever tell him about raising the
8 hood to see the dope?

9 A. I don't recall.

10 Q. And, in fact, you found out after you got the
11 Lexus that it was a Bible wrapped up that looked like a
12 kilo?

13 A. I don't recall that.

14 Q. Now the officers wouldn't make that up and put
15 it in their report now, would they?

16 MR. HILL: Judge, I don't know how he
17 would know what officers testified.

18 THE COURT: Sustained.

19 Q. (BY MR. MCCLELLAN) Are you saying you ever
20 remembered -- you never remember telling the detective
21 the events of December the 6th and the surrounding time
22 to Detective Ted Bloyd, who testified here in the
23 courtroom the other day?

24 A. Uh-huh. Like I said, again, I remember on
25 December the 10th, they came and he told me his

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1 recollection of the story.

2 Q. Question was, do you recall ever, from December
3 the 6th forward, ever telling Detective Ted Bloyd about
4 the events of December the 6th, 1998?

5 MR. HILL: Judge, I'm going to object. If
6 he could be more specific.

7 THE COURT: It's overruled.

8 THE WITNESS: I don't recall.

9 Q. (BY MR. MCCLELLAN) You don't recall?

10 A. No, sir.

11 Q. You never tell -- you never told Ted Bloyd
12 about you came to Houston for a dope deal?

13 A. Me and Mr. Bloyd did not even speak. Me and
14 Mr. King, the other detective, he spoke to him.

15 Q. Was Ted Bloyd present?

16 A. Yes, he was.

17 Q. Did you ever say in the presence of Ted Bloyd,
18 Officer King, and Detective Ted Badeaux that you came to
19 Houston to do a dope deal in December of 1998?

20 A. I cannot recall.

21 Q. Did you ever tell them that you met up with a
22 Kevin Walter to do a dope deal?

23 A. I think that did come about.

24 Q. Did you ever tell them that you had \$17,500, or
25 \$17,000, around that amount of money?

221

1 A. I don't recall that.

2 Q. Okay. Now, do you ever recall talking to
3 Terrence Dodson about the events that you witnessed on
4 December the 6th, 1998?

5 A. I never told Mr. Dodson about any events that
6 happened on December 6th of 1998.

7 Q. Did you ever tell him that you jumped in the
8 Lexus and the girl was freaking out?

9 A. I never, again, told Mr. Dodson any kind of
10 events that happened on December 6th, 1998.

11 Q. Did you tell him that you drove the girl to an
12 abandoned house where the house was for sale?

13 A. I never told Mr. Dodson, Terrence O'Neil
14 Dodson, my cousin, those things.

15 Q. Did you ever tell Terrence Dodson that you took
16 the girl into the backyard of that house and had her
17 perform oral sex on you?

18 A. I never told Mr. Dodson anything such as that.

19 Q. Did you ever tell Terrence Dodson that upon her
20 performing oral sex on you, you then shot her one time
21 in the chest?

22 A. I never told Mr. Terrence O'Neil Dodson, my
23 first cousin, that statement.

24 Q. Did you ever tell him that the reason you
25 killed her is because you thought you had already killed

220

1 A. I don't recall that.

2 Q. Okay. Did you ever tell them you came there to
3 buy a kilo?

4 A. I don't recall that.

5 Q. Did you ever tell them you met up with Kevin
6 Walter, Dion Holley, and Terrence Gibson, or met up with
7 some people in a blue Lexus -- and forgot the name --
8 people in a blue Lexus to do a dope deal?

9 A. Like I said, they was asking me some questions.

10 I don't recall me telling them that.

11 Q. Did you ever tell them you noticed another car
12 kept following you around?

13 A. No, I don't recall that.

14 Q. Did you ever tell them you went to a dark place
15 and pulled the cars together?

16 A. Like I said, I can recall them telling me that.

17 Q. Did you ever say -- tell them that there is a
18 third vehicle pulled up and you heard gunfire?

19 A. I never said that to Mr. Bloyd, nor did I say
20 that to Mr. King.

21 Q. Never said it to anybody?

22 A. I don't recall Mr. Badeaux on the 9th.

23 Q. Did you ever say you, then, after the gunfire
24 from this third vehicle that drove by, jumped in your
25 car and left?

222

1 everybody else?

2 A. No, sir.

3 Q. Let's go back just for a moment, if we can, to
4 the Fiesta where you first drove.

5 A. I did not drive.

6 Q. Johnson drove, and you were in the car that Bug
7 Johnson was in, and y'all were being followed by the
8 Lexus?

9 A. Uh-huh.

10 Q. Now the reason the drug deal didn't go down
11 there is because, isn't it, Mr. Mamou, that Mr. Kevin
12 Walter had his car too far away?

13 A. It's a false statement.

14 Q. Okay. Because if his car is too far away, you
15 won't be able to shoot Terrence Gibson and Dion Holley
16 and Kevin Walter; so somebody's going to get away and be
17 able to turn you in?

18 A. That's a false statement.

19 Q. And when you went to the location where the
20 buildings are, isn't the reason the drug deal didn't go
21 down there is because, again, Kevin Walter parked too
22 far away?

23 A. That's a false statement.

24 Q. And you could not kill everybody in the car,
25 which is what you had to do to get away with the deal?

223

1 A. That's a false statement.

2 Q. And isn't it true then when you finally got
3 them to follow you to Lantern Point Lane and someone
4 came up with the idea of putting the cars together to
5 make it look like you're giving the cars a boost in case
6 someone drove by or asked what was going on, that you
7 then had them where you wanted them?

8 A. That's a false statement.

9 Q. Because you were able, Mr. Mamou, were you not,
10 to get out of your car, to get Mr. Gibson and Mr. Holley
11 to the back of the car while Mr. Walter was sitting in
12 the car; and you were able to shoot both of them, come
13 back to the front of the car, and finish off Kevin
14 Walter. And you had them all right where you needed
15 them?

16 A. Mr. Dion Holley was in the front of the Lexus,
17 and that's a false statement.

18 Q. And after shooting all three of those people,
19 thinking that they were all dead because you didn't see
20 anybody alive, you then jumped in that car; because you
21 had to have the car, because you knew that's where the
22 dope was?

23 A. I seen Mr. Kevin Walter alive, as well as
24 Mr. Holley alive; and that's a false statement.

25 Q. And you drove that car then along with Mary

225

1 A. Oh, maybe so. I apologize to the jury.

2 Q. And he saw you in the back of the car. While
3 he didn't see you shoot Terrence Gibson, he heard a shot
4 and Terrence Gibson fell flat. Did that happen? Did
5 Terrence Gibson fall right where you shot him?

6 A. I did not even see Mr. Gibson fall.

7 Q. So everybody who was there, who is still alive,
8 says they saw you shoot; is that right?

9 A. I know Mr. Kevin said I shot. I know Mr. Bug
10 Johnson, since you have explained to me, said I shot;
11 but I'm not quite sure what Mr. Dion Holley said.

12 Q. Well, there wasn't anybody out there that night
13 shooting a gun other than you, were they?

14 A. Now that, I do not know.

15 Q. You do know that there are five cartridge cases
16 that were recovered, and they all were fired from the
17 same firearm?

18 A. That is an assumption.

19 Q. Well, you heard testimony from Officer Baldwin.
20 You just think that's his assumption?

21 A. No, sir, I do not.

22 Q. Well, you heard him say that the five cartridge
23 cases down at Lantern Point Drive were all fired from
24 the same firearm?

25 A. He didn't say that was his opinion.

224

1 Carmouche in the back, knowing that Mary Carmouche was
2 in the back; and you drove her over to that house on
3 Lynchester, and that's where you killed her in cold
4 blood. Isn't that true?

5 A. That's a false statement.

6 Q. And isn't it true that you killed her for the
7 purpose that she could not ever be a witness, because
8 you thought you had already killed everybody else?

9 A. No, sir.

10 Q. So if I'm to understand you, Kevin Walter must
11 be telling untruths?

12 A. That's a true statement.

13 Q. Yeah. Dion Holley must be telling untruths?

14 A. That's a true statement.

15 Q. About as far as you being the shooter?

16 A. No, sir.

17 Q. Because as I understand it, Kevin Walter says
18 you fired the gun, Dion Holley says you fired the gun.
19 Sam Johnson says you fired the gun.

20 A. Mr. Johnson's testimony was not that I fired a
21 gun.

22 Q. It wasn't?

23 A. Not that I recall.

24 Q. I thought Mr. Johnson said that it was kind of
25 half in and half out, and he saw you shoot Kevin Walter?

226

1 Q. He says that was his opinion based upon his
2 examination.

3 A. Well, that was his opinion.

4 Q. So you're saying it wasn't all fired out of
5 your gun?

6 A. Mr. Lyn, I cannot tell you. I may have shot
7 more than that, maybe less. I do not know. I was not
8 there counting the shots.

9 Q. Okay. Well, let me ask you this: Back on
10 Lynchester, were you counting the shots there?

11 A. Lynchester? Where is that?

12 Q. The abandoned house, where you took Mary
13 Carmouche.

14 A. I'm sorry. I did not even know that area.

15 Q. You're saying you never told the detectives
16 what transpired?

17 A. Not that I recall, sir.

18 Q. You say that Mary Carmouche, during the time
19 that you -- she was in your presence, after the
20 shooting, never upset, never scared, didn't --

21 A. Well, I don't really know her true feelings;
22 but she was not in a yelling rampage or nothing like
23 that.

24 Q. Wasn't crying?

25 A. No, sir.

227 Q. Wasn't -- just looked like she was in shock?
 1 A. Not that I can recall.
 2 Q. Okay. Wasn't begging that somebody let her go?
 3 A. No, sir.
 4 Q. She was just kind of going with the flow?
 5 A. If that's what you want to call it.
 6 Q. Well, I mean, she didn't try to leave?
 7 A. My intentions were not on her. You know what
 8 I'm saying? She had a cut on her arm, and I gave her a
 9 napkin for her cut. Some glass had hit her, I believe
 10 she had told me.
 11 Q. Some glass had hit her?
 12 A. On her arm, I believe. I'm not sure.
 13 Q. Okay. And that would be glass from the Lexus,
 14 whenever you shot the window out?
 15 A. I don't know, sir. I do not know what glass
 16 she's talking about.
 17 Q. Where did you get the napkin?
 18 A. There was some napkins on the armrest, right
 19 between the armrest, sir.
 20 Q. So you handed her a napkin?
 21 A. I sure did.
 22 Q. To tend to her wounds?
 23 A. No. I just handed her a napkin, because she
 24 had seen blood.
 25

229 I just did.
 1 Q. Did you ask him if he knew where a chop shop
 2 was?
 3 A. I never asked him about any chop shop. He told
 4 me he had a Mexican friend who owned a chop shop, where
 5 I could get rid of the car, as well as those rims on the
 6 car.
 7 Q. So did you do that?
 8 A. No, I did not.
 9 Q. Because you're not -- you wouldn't do that type
 10 of criminal activity, right?
 11 A. No, I'm not saying that, Mr. Lyn. I'm just
 12 saying that was not my intentions on stealing any car.
 13 Q. Okay. What were your intentions?
 14 A. To get away, Mr. Lyn.
 15 Q. After you got away, you were going to return
 16 the car back to its rightful owner?
 17 A. Mr. Lyn, I left the car right there.
 18 Q. Why did you take the keys?
 19 A. I got the keys that morning from Mr. Howard
 20 Scott; because Mr. Howard, that morning, wanted me to
 21 move the vehicle, and I refused to move the vehicle.
 22 Q. So Howard Scott -- why would Howard Scott have
 23 the vehicle?
 24 A. He had the keys that night.
 25

228 Q. So was she bleeding a lot?
 1 A. No, sir, she was not.
 2 Q. So it wouldn't be any blood in the Lexus from
 3 her?
 4 A. I don't know.
 5 Q. You didn't see anybody out at that scene shoot
 6 a gun other than yourself, did you?
 7 A. Mr. Lyn, I didn't really see too much.
 8 Q. Well, did you ever -- after this event
 9 happened, did you take the keys to the Lexus?
 10 A. If I took the keys to the Lexus?
 11 Q. Did you take the keys to the Lexus, keep them
 12 with you?
 13 A. That night Howard Scott had the key to the
 14 Lexus that night.
 15 Q. So you couldn't have gotten in the car,
 16 bragging with Anthony Trail and with Terrence Dodson and
 17 showed them the keys to the Lexus?
 18 A. I recall that incident, sir.
 19 Q. Did you do that?
 20 A. I did not brag about it that way.
 21 Q. What did you do?
 22 A. I showed Mr. Dodson the keys.
 23 Q. Why?
 24 A. It was just something I did. I don't know why.
 25

230 Q. He took them out of the Lexus?
 1 A. No, sir. I gave it to him after he went back
 2 to the Lexus and cleaned it down with some 409.
 3 Q. 409?
 4 A. And a towel.
 5 Q. 409?
 6 A. Yes, sir.
 7 Q. I guess he missed a couple of spots?
 8 A. I don't know. I did not actually visualize him
 9 cleaning the car.
 10 Q. And why would Howard Scott do that?
 11 A. Well, I think the parties that was there all
 12 had a little something in it, Mr. Lyn.
 13 Q. Everybody there had a little something in it?
 14 What do you mean? They were all involved in this deal?
 15 A. Like I say, when I pulled up, they all knew
 16 already what had happened.
 17 Q. News travels fast. So Howard Scott's involved
 18 in this deal?
 19 A. Excuse me?
 20 Q. Howard Scott's involved in this deal?
 21 A. Involved in what deal? Could you be more
 22 specific.
 23 Q. December the 6th dope deal, killing people,
 24 destroying evidence?
 25

231 A. Mr. Lyn, like I said, my testimony was that he
 1 was there. He got the three socks, as well as he
 2 cleaned the Lexus of the vehicle.
 3
 4 Q. Because you were looking for that dope, right?
 5 A. There was no dope, Mr. Lyn.
 6 Q. I know, but they were looking for that dope?
 7 A. I don't know what they was doing.
 8 Q. Why would they have three socks?
 9 A. My conclusion, my opinion would be, yes, they
 10 was looking for dope; but I don't live to give --
 11 speculate on nobody else's statement.
 12 Q. You were not looking for the dope?
 13 A. I was not looking for any dope.
 14 Q. You were ready to buy some dope; but if you
 15 can't buy it, I'm not taking it. Is that your position?
 16 A. No, sir. At that point in time -- at that
 17 point in time, it was not about any dope.
 18 Q. What was it about then at that point in time?
 19 A. I wanted to go back home.
 20 Q. Well, you had gone here to do a dope deal?
 21 A. That's correct.
 22 Q. You had the money to do a dope deal. You have
 23 a chance now to get free dope, if there had been dope in
 24 the car, and you're not one to get that free dope. Is
 25 that what you're trying to tell the jury?

233 1 testified that you were continually calling up and
 2 2 asking about this event. Did the people die? What
 3 3 happened? What happened to the girl and all of this?
 4 4 A. I called Mr. Dodson on December 9th, when I was
 5 5 in Sunset, Louisiana, about the incident only because I
 6 6 received a call, phone call from my father. And my
 7 7 father told me the police was looking for me, as well as
 8 8 Mr. Dodson. They wanted to charge us with capital
 9 9 murder. And if we do not turn ourself in, we was going
 10 10 to be America's Most Wanted. But my cell phone got --
 11 11 the battery was dead, and it hung up on my daddy. And
 12 12 right after I charged the phone up, I received a call
 13 13 from my mother. And she was panicking because the
 14 14 police was over there to the house. And this time,
 15 15 before I even talked to Mr. Dodson, I was in my house in
 16 16 Opelousas, Louisiana, which I drove from Opelousas to
 17 17 where the police was in Sunset, Louisiana.
 18 Q. You drove where?
 19 A. From one of my houses in Opelousas, Louisiana,
 20 which is about fifteen minutes from Sunset, Louisiana;
 21 and I went and meet the police over there.
 22 Q. Oh, so you drove to meet the police, because
 23 you heard they were looking for you?
 24 A. Well, no, not really that. I just drove to
 25 Sunset to see what the hell was going on.

232 1 A. You have to wear my shoes, Mr. Lyn, at that
 2 time.
 3 Q. I just soon not, but is that what you're trying
 4 to tell the jury?
 5 A. I'm not trying to tell the jury that. That's
 6 what I'm telling the jury.
 7 Q. That you weren't interested in the dope.
 8 That's the reason you took the car, isn't it?
 9 A. At that time, no, sir, I did not never say
 10 that. I took the car to get away.
 11 Q. All right. Well, when you got away and you met
 12 up with Bug Johnson there behind -- when he pulled up
 13 behind you and flashed the lights, and you being there
 14 on the side of the road, you should have said, Hey,
 15 forget this, and jumped in his car and, Let us go, left
 16 that Lexus there?
 17 A. I realize I'm saying the police may have been
 18 looking for the vehicle. The Lexus, also, was running
 19 real bad. It was low to the front. My assumption was
 20 the tire might have got shot; so I followed him, because
 21 he told me follow. So I followed.
 22 Q. Did the tire go flat while you were driving?
 23 A. I don't know. I just know the car was running
 24 low, in a lower position in front.
 25 Q. Now Terrence Dodson and Anthony Trail both

234 1 Q. So, now, I understood you were found hiding in
 2 a closet?
 3 A. Yes, sir. But, you know, you only heard one
 4 part of the story. I hid in the closet; because when
 5 they came to my friend's house, they had their weapons
 6 drawn, banging on the door, about to knock it down. So
 7 I'm scared.
 8 Q. Well, I thought you had gone to Sunset,
 9 Louisiana to talk to the police?
 10 A. I sure did, but the vehicle that was -- thank you, please -- the vehicle I
 11 was in was my friend, Dennis Dugas', vehicle. I used
 12 his car that night. I went over to his house to bring
 13 his vehicle back. He was not there, but I had the keys
 14 to his house.
 15 Q. And so when the police came to the door, you
 16 said, Oh, boy, here's my chance. I can tell them now
 17 I've been looking for them; and now I found them, and I
 18 can tell them what happened?
 19 A. Well, you know, that would be the logical
 20 thing; but when you got -- they surround the house,
 21 first of all, with pistols. This is not nothing to play
 22 with. This is nothing to play with at all.
 23 Q. You drove to Sunset, Louisiana to talk to the
 24 police. Now my understanding is that police department
 25

235

1 consists of three people, right?
 2 A. That's correct. Oh, the police department?
 3 Q. Police department in Sunset, Louisiana?
 4 A. No, sir, we have more than three people that
 5 work there.
 6 Q. How many you have?
 7 A. There is about six officers that work in the
 8 Sunset Police Department.
 9 Q. Do you know where the police station is?
 10 A. Yes, I do.
 11 Q. Could have driven right to them?
 12 A. Sure could have.
 13 Q. Knocked on the door?
 14 A. Sure could have.
 15 Q. Said, Oh, I need to tell you what's going on?
 16 A. Sure could have.
 17 Q. And you didn't because of?
 18 A. Because there was more than the Sunset Police
 19 Department. If I can recall right, there was Opelousas
 20 Parish Task Force, as well as Lafayette.
 21 Q. I'm not talking about when they came to Dugas'
 22 house. I'm talking about when you decided to go to
 23 Sunset, Louisiana?
 24 A. That's what I'm talking about. I also called
 25 the Sunset Police Department and asked them what was

237

1 don't you? Do you?
 2 A. I had.
 3 Q. Is this a tragedy then for you?
 4 A. No, sir.
 5 Q. That you lost all this?
 6 A. No, sir, not at all.
 7 Q. So you couldn't find the police in Sunset,
 8 Louisiana, to tell what went on?
 9 A. There was one special cop that I was mainly
 10 looking for. His name was Jeffery Lanier.
 11 Q. And you know Jeffery how long?
 12 A. All my life.
 13 Q. Somebody you grew up with?
 14 A. He's older than me. I never grew up with him.
 15 Q. You had to talk to him; you couldn't talk to
 16 somebody else?
 17 A. I called the police, our Sunset Police
 18 Department's dispatcher, asked what they was looking for
 19 me for, and I wanted to speak to Jeffery Lanier.
 20 Q. So did you talk to Jeffery Lanier after you
 21 were arrested?
 22 A. I did not talk to Mr. Lanier.
 23 Q. Initially, you were taken to the Sunset Police
 24 Department, were you not?
 25 A. Yes.

236

1 they looking for Charles, AKA Chucky Mamou for.
 2 Q. What did --
 3 A. The dispatch.
 4 Q. Did she tell you?
 5 A. They asked me where I was.
 6 Q. How did they know who you were?
 7 A. I was well-known in Sunset, Louisiana.
 8 Q. Why are you so well-known?
 9 A. A good guy.
 10 Q. I thought you were a dope dealer?
 11 A. Drug dealers -- not all drug dealers are bad,
 12 Mr. Lyn.
 13 Q. And so in Sunset, Louisiana, drug dealers are
 14 looked up to?
 15 A. It's a small community. Everybody knows
 16 everybody.
 17 Q. But drug dealers are looked up to in Sunset,
 18 Louisiana?
 19 A. No, I would not go there now.
 20 Q. Because they have lots of money and lots of
 21 nice things?
 22 A. Who?
 23 Q. Drug dealers?
 24 A. I don't know.
 25 Q. You have nice things and nice cars and stuff,

238

1 Q. Did you ask to talk to Jeffery Lanier there?
 2 A. No, sir.
 3 Q. But that's who you wanted to talk to?
 4 A. At the time before my arrest, yes, that's who I
 5 wanted to talk to.
 6 Q. Everybody, basically, who's testified in the
 7 case has lied against you?
 8 A. Everybody had a reason, Mr. Lyn.
 9 Q. Okay. And wouldn't you think that the people
 10 who were shot would be interested in getting the right
 11 guy?
 12 A. I would believe so.
 13 Q. But they lie and are trying to get you?
 14 A. Excuse me, I didn't hear that.
 15 Q. They're lying and trying to get you?
 16 A. Trying to get me? What you mean?
 17 Q. People are trying to convict you. Why are they
 18 trying to convict you when you didn't do anything wrong?
 19 A. Well, Mr. Lyn, in society before the incident
 20 happened, they called me a carjacker. I was not being
 21 arrested for no drugs. It was a carjack and a
 22 kidnapping of a girl. So this is why everybody else may
 23 have had a perception of lying on me, Mr. Lyn.
 24 Q. So you figure everybody just -- if they believe
 25 what they heard the first time, it would have been a

239

1 good samaritan got shot?

2 A. If I heard that story, too, and I was on the
3 other end where you're at, I probably would have
4 believed them.

5 Q. Well, in fact, you did hear that story. And
6 didn't you tell Anthony Trail and Terrence Dodson that
7 wasn't no -- those boys didn't stop to help anybody;
8 that was a jack on a jack?

9 A. That comment never did take place.

10 Q. You know what a jack on a jack is?

11 A. I mean, from -- I'm aware of what?

12 Q. My next question was, do you know what a jack
13 on a jack is?

14 A. Yes, I do.

15 Q. You never said that word, that this was a jack
16 on a jack?

17 A. No, sir.

18 Q. Robbery on a robbery?

19 A. No, sir, no, sir.

20 Q. So Terrence Dodson, your cousin, comes in and
21 lies about you so that you could be convicted of capital
22 murder and possibly get the death penalty. That's what
23 Terrence Dodson did. Is that what you're saying?

24 A. Mr. Dodson lied on me. You know what I'm
25 saying? I could sit here and tell y'all what I feel or

241

1 A. Well, I don't know how the court system works.

2 Q. Well, you know how it works when you're in
3 Louisiana, and we were trying to extradite you back
4 here, do you not?

5 A. I also know I wrote you a letter and told you
6 to come get me, did I not?

7 Q. You sure did. And then I found out, as soon as
8 we went over there to get you, that it took us from
9 January the 19th of 1999, until June of 1999, to get you
10 back; because you fought extradition every step of the
11 way, right?

12 A. Let the record reflect --

13 Q. Is that right or wrong?

14 A. No, sir, I never fought. No one told me
15 anything about extradition.

16 Q. You weren't told by a Judge that -- didn't they
17 ask you if you wanted to waive extradition and come back
18 to Harris County, and you said no?

19 A. I don't recall that.

20 Q. Never told anybody that?

21 A. I don't recall that.

22 Q. Then how do you explain that it took so long to
23 get you back here?

24 A. I recall me going to Opelousas Parish for
25 probation violation; because I was in Houston, Texas, is

240

1 why he done it, but it's not that -- I go through pain,
2 knowing that's my first cousin. But if I could recall
3 right, I could swear that I heard him say he was
4 threatened; he was going to be charged with two capital
5 murders. And I wonder who told him that.

6 Q. Well, you know, he never was charged with
7 anything.

8 A. Oh, because apparently y'all had y'all's man
9 December 9th.

10 Q. In fact, you had already been charged with
11 capital murder when he talked to the police; isn't that
12 true?

13 A. Not to my knowledge, Mr. Lyn. If I can recall
14 right, I was arrested for a probable cause warrant for
15 Harris County for aggravated robbery, not murder.

16 Q. And by the 10th day of December, 1998, you had
17 been filed on for capital murder?

18 A. I had no recollection of that. I had not
19 received no indictment papers. I had not received
20 nothing.

21 Q. Because -- you didn't receive any indictment
22 papers, because you had fled to Sunset, Louisiana.
23 There wasn't an indictment anyway. That comes later.
24 I'm talking about the filing of the charges, an open
25 warrant for your arrest?

242

1 what I recall, on February 9th of 1999. I also recall
2 on April 26th, I went to the penitentiary and I was not
3 convicted of nothing. It was Angola Penitentiary.

4 Q. Well, you were convicted. In fact, you were on
5 probation for possession of a controlled substance, were
6 you not?

7 A. That took place in 1995, sir.

8 Q. I understand, but you were on probation for
9 possession of a controlled substance with intent to
10 deliver?

11 A. Yes, I was, for eighteen months.

12 Q. Pardon?

13 A. The probation violation was only for eighteen
14 months.

15 Q. Question is --

16 A. Yes, I was.

17 Q. Thank you. And your probation was revoked; and
18 you were sentenced to five years in the Louisiana
19 Department of Corrections, whatever they call it, and
20 sent to Angola; is that correct?

21 A. That's a false statement.

22 Q. It is?

23 A. Yes, sir, I was sentenced to three years, half
24 of the three-year sentence, which was eighteen months,
25 not to no Angola Penitentiary. Angola is a life

247

1 A. I agree that the police arrested a lot of
 2 suspects who was also involved in this, and I agree they
 3 let them go.

4 MR. MCCLELLAN: I object to being
 5 nonresponsive, Your Honor.

6 THE COURT: Sustained.

7 MR. MCCLELLAN: Ask the witness --

8 THE COURT: Just answer the question,
 9 please.

10 THE WITNESS: Could you repeat the
 11 question?

12 Q. (BY MR. MCCLELLAN) And if you don't understand
 13 when I ask, I'll be happy to repeat it. Would you agree
 14 with me that whoever killed Mary Carmouche in the manner
 15 and means in which she met her death deserves the
 16 harshest of punishments?

17 A. Most definitely.

18 MR. MCCLELLAN: Pass the witness.

19 REDIRECT EXAMINATION

20 BY MR. HILL:

21 Q. Mr. Mamou, I'm going to ask you a couple of
 22 questions. There are some things that Mr. McClellan
 23 talked to you about. I don't want to quibble over this
 24 document, but let's just clarify something. This thing
 25 from Louisiana, just explain to the jury what you were

249

1 A. Yes, sir.

2 Q. Is that during the period of time the State of
 3 Texas is attempting to bring you back to face charges on
 4 the capital murder?

5 A. I was not even informed Texas was trying to
 6 come get me at all. I'm just being transported back and
 7 forth.

8 Q. Are the prison officials taking you from one
 9 location to another?

10 A. Yes, sir.

11 Q. What period of time are we talking about?

12 When, in 1999 is this happening to you?

13 A. In February, I was in Opelousas. In March I
 14 went back to Lafayette. In April I went to Hunts, and
 15 in April -- no, May -- the ending of April, the
 16 beginning of May, I went to Angola.

17 Q. I thought you said you don't go to Angola,
 18 because that's a life facility?

19 A. You're not supposed to, sir.

20 Q. From there, did you come directly to Houston?

21 A. No, sir.

22 Q. Where did you go?

23 A. I went back to Lafayette.

24 Q. From Lafayette, did they bring you into
 25 Houston?

248

1 put on probation for and how the process worked that you
 2 ended up being revoked?

3 A. I was put on probation for carrying -- you
 4 know, having possession of crack cocaine.

5 Q. And then in February of this year, while you're
 6 back in Louisiana, records reflect that you had a
 7 hearing with some attorney by the name of -- it's on the
 8 front page there, Mar --

9 A. It's Glen Marcantel. He's an attorney out of
 10 Eunice, but he was not present.

11 Q. Okay. At that point in time the Judge revoked
 12 your probation, okay, where did they physically take
 13 you?

14 A. I went back to Opelousas, the jail in
 15 Opelousas.

16 Q. Is that a county jail or a penitentiary?

17 A. County jail.

18 Q. Did you ever go to an actual penitentiary
 19 facility?

20 A. I went to two of them.

21 Q. Which ones?

22 A. Hunts Penitentiary in Louisiana, and I went to
 23 Angola.

24 Q. And during that period of time, you're being
 25 taken from one penitentiary facility to another?

250

1 A. Well, Lafayette had gave -- I think they called
 2 out here, because an attorney presented himself to me
 3 and said that Houston had so many days to come get me.

4 Q. All right. Now what is this deal about the
 5 eighteen months? The paperwork says you were sentenced
 6 to the original sentence.

7 A. Uh-huh.

8 Q. Where do you come up with this eighteen months?

9 A. Judge Alonzo Harris, he suspended the five
 10 years probation hard labor and he gave me three years.
 11 And out of the three years, he sentenced me to eighteen
 12 months. And when I called on the phone, I made parole
 13 April of 2,000.

14 Q. Well, that's in Louisiana?

15 A. Yes, sir.

16 Q. Let me ask you: Did you kidnap Mary Carmouche?

17 A. No, sir.

18 Q. What happened to the gun once you got back to
 19 Fondren Court Apartments?

20 A. Shawn took it from me.

21 Q. When you were in Louisiana, and you're in
 22 Sunset or you're in Lafayette, when Mr. McClellan is
 23 talking about the Detective Bloyd and others going to
 24 talk to you, did you have an attorney at that point in
 25 time?